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PART IV

Acts of Gujarat Legislature and Ordinance Promulgated
and Regulations made by the Governor.

The Following Act of the Gujarat Legislature, having been assented to by the Governor on the 23rd January, 2008 is hereby published for general information.

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 1 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 23rd January, 2008).

AN ACT

further to amend the Gujarat Co-operative Societies Act, 1961.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Co-operative Societies (Amendment) Act, 2008.

Short title and
commencement.

(2) It shall be deemed to have come into force on the 8th October, 2007.

Guj. X of 1962.

2. In the Gujarat Co-operative Societies Act, 1961 (hereinafter referred to as "the principal Act"), in section 2,-

Amendment of
section 2 of Guj.
X of 1962.

(1) after clause (7), the following clause shall be inserted, namely :-

"(7A) "co-operative credit structure" means (i) the Primary Agricultural Credit Co-operative Societies; (ii) the Central Co-operative Banks; and (iii) the State Co-operative Bank;"

(2) after clause (13), the following clause shall be inserted, namely:-

"(13A) "National Bank" means the National Bank for Agriculture and Rural Development established under section 3 of the National Bank for Agriculture and Rural Development Act, 1981;"

61 of 1981.

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Amendment of
section 6 of
Guj. X of 1962.

3. In the principal Act, in section 6, after sub-section (1), the following sub-section shall be inserted, namely :-

“(1A) In case of the society in co-operative credit structure registered under sub-section (1), the society shall have power to decide their respective area of operation without any restrictions.”

Amendment of
section 13 of Guj.
X of 1962.

4. In the principal Act, in section 13, to sub-section (2), after the existing proviso, the following proviso shall be added, namely :-

“Provided further that the application for registration of amendment of bye-laws of a society shall be disposed of within sixty days from the date of its receipt.”

Amendment of
section 22 of Guj.

5. In the principal Act, in section 22,-

(1) in sub-section (1), after clause (f), the following clause shall be inserted, namely:-

“(g) a group of the individuals eligible under clause (a), whether incorporated or not and whether established or not by or under any law.”;

(2) for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) Every person seeking admission as a member of a society, if duly qualified for membership of such society under the provisions of this Act, the rules and the bye-laws of the society, may make an application to the society for membership. The society shall take decision on the application and shall communicate the decision within a period of three months from the date of the receipt of the application.”;

(3) after sub-section (3), the following sub-sections shall be added, namely:-

“(4) All the depositors having deposits of rupees ten thousand or above for a minimum period of one year and the borrowers shall be compulsorily made members in the Primary Agricultural Credit Co-operative Societies:

Provided that the depositors having deposits less than rupees ten thousand shall be made nominal members.

(5) The State Government may, by notification in the *Official Gazette*, alter the limit of rupees ten thousand specified by sub-section (4) and also specify such amount of deposit as it deems necessary for a class of society and different amount may be specified for different classes of societies. In the case of borrowing members, the society shall prescribe in its bye-laws, linking shares subject to minimum of two and half per cent. of the loan taken by the borrowers.”

6. In the principal Act, in section 27, the existing section shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be added, namely:-

Amendment of section 27 of Guj. X of 1962.

“(2) The person who has committed a default and remains as such defaulter in making repayment of loan or interest thereon for a period of one year from the due date of repayment of such loan or interest or installment shall not be entitled to exercise voting rights of a member of a society till all such repayments are made.”.

7. In the principal Act, after section 44, the following section shall be inserted, namely:-

Insertion of new section 44A in Guj. X of 1962.

“44A. Notwithstanding anything contained in this Act or the rules or the bye-laws made thereunder, the committee of every society in a co-operative credit structure shall have freedom to decide its financial and internal administrative matters, especially:-

Power of Committee of co-operative credit structure.

(i) interest rates on deposits and loans, subject to the directives issued by the Reserve Bank of India;

(ii) borrowing, investment, depositing its surplus funds, loaning policies (including individual loans) and other business policies;

(iii) personnel policies including issues relating to recruitment, promotion, staffing, training, posting and compensation to staff as per business requirement of the society;

(iv) internal checks and control systems, appointment of auditors, their compensation and other internal administrative issues; and

(v) borrowing from any financial institution regulated by the Reserve Bank of India, keeping in mind the interest of the society and its members.”.

8. In the principal Act, in section 45, after sub-section (2), the following sub-section shall be added, namely:-

Amendment of section 45 of Guj. X of 1962.

“(3) Notwithstanding anything contained in this Act, no person or group of persons other than a member or members shall be eligible to borrow from or make deposit in a Primary Agricultural Credit Co-operative Society.”.

9. In the principal Act, in section 51, to sub-section (1), the following proviso shall be added, namely :-

Amendment of section 51 of Guj. X of 1962.

“Provided that in the case of societies in the co-operative credit structure, the State Government shall not subscribe for more than twenty-five per cent. of the total share capital and the State Government or the society shall have the option to reduce the share capital contributed by the State Government.”.

10. In the principal Act, after section 67, the following section shall be inserted, namely:-

Insertion of new section 67A in Guj. X of 1962.

Bad Debt Reserve Fund.

"67A. (1) Every society which earns profit from its transactions, shall maintain a Bad Debt Reserve Fund.

(2) Every year, the society shall carry at least fifteen per cent. of the net profit to the Bad Debt Reserve Fund.

(3) All debts which are found to be irrecoverable and certified as such by a certified auditor and expenses incurred in recovering the same shall first be written off against the Bad Debt Reserve Fund.

(4) Notwithstanding anything contained in section 67-

(a) the balance of bad debts, if any, remaining after first writing them off under sub-section (3); and

(b) all losses incurred by a society including those suffered on account of settlement of disputes under section 98 which are certified as such by a certified auditor;

may be written off against the reserve fund maintained under section 67 to the extent of not more than thirty per cent. of the balance in that fund:

Provided that no bad debt or loss shall be written off against the bad debt fund or, as the case may be, the reserve fund, unless the society in the general meeting passes a resolution approving the same by a majority of total membership of the society and by a majority of not less than two-third of the members of the society present and voting.

(5) Notwithstanding anything contained in the Act, no society in co-operative credit structure shall be directed by the State Government or otherwise required to contribute to any fund other than those for improving the net worth and owned fund of the society."

Substitution of section 68 of Guj. X of 1962.

11. In the principal Act, for section 68, the following section shall be substituted, namely :-

Restriction on dividend.

"68. No society shall pay dividend to its members at a rate exceeding the rate as may be prescribed by the State Government, by notification in the *Official Gazette*, from time to time for all societies generally or a class of societies in particular :

Provided however that the dividend payable in case of co-operative credit structure shall be subject to the guidelines of the Reserve Bank of India or, as the case may be, the National Bank."

Amendment of section 69 of Guj. X of 1962.

12. In the principal Act, in section 69, after sub-section (3), the following sub-section shall be added, namely :-

"(4) The provisions of sub-sections (1) to (3) shall not apply to the societies in the co-operative credit structure."

13. In the principal Act, -

Amendment of
section 70 of Guj. X
of 1962.

(i) in section 70, after the words and figures "section 67 and", the words, figures and letter "for the bad debt reserve fund as provided in section 67A and" shall be inserted;

(ii) to section 70, the following proviso shall be added, namely :-

"Provided that the provisions of this section shall not apply to the societies in the co-operative credit structure."

14. In the principal Act, in section 71, in sub-section (1), for the clauses (f) and (g), the following clauses shall be substituted, namely:-

Amendment of
section 71 of Guj. X
of 1962.

2 of 1934.

"(f) in a Scheduled co-operative bank as defined in clause (2) of section 2 of the Reserve Bank of India Act, 1934 and having its registered office within the State or in any nationalised bank,

(ff) in any land or building-

(i) where the money in a building fund established by a society is sufficient for the purpose, or

(ii) where the money in such a fund is insufficient for the purpose or where a society has not established such fund, with the previous sanction of the Registrar :

Provided that the Registrar shall endeavor to decide the question as to previous sanction be given or not, within ninety days of the receipt of an application for such sanction,

(g) in any corporation owned or controlled by the Government of Gujarat and other Scheduled Banks not covered under clause, (f), with the prior approval of the State Government subject to such terms and conditions as may be prescribed in this behalf :

Provided that in the case of the State Co-operative Bank, the Central Co-operative Banks and the Primary Agricultural Credit Co-operative Societies, the Reserve Bank of India may issue further guidelines restricting or enlarging the scope of investment in any institutions approved for the purpose under this section."

15. In the principal Act, after section 73, the following section shall be inserted, namely :-

Insertion of new
section 73A in
Guj. X of 1962.

"73A. Notwithstanding anything contained in this Act or the rules for the time being in force, the societies in the co-operative credit structure shall be at liberty to affiliate or disaffiliate with any federal society of its choice provided a resolution approving such affiliation or disaffiliation with a federal society is passed in the annual general meeting held for the purpose with three - fourth majority of total members, and subject to the rules as may be prescribed and the guidelines issued by the Reserve Bank of India."

Freedom for
affiliation or
disaffiliation with
a federal society
of choice.

Amendment of
section 74 of Guj. X
of 1962.

16. In the principal Act, section 74 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:-

“(2) There shall be two professionals on the committee of the Central Co-operative Bank and the State Co-operative Bank having qualification prescribed by the Reserve Bank of India or, as the case may be, the National Bank. If such members are not elected on committee of the Central Co-operative Bank and the State Co-operative Bank, the Registrar shall direct the concerned bank to co-opt such professional on the committee within the time limit specified in such direction of the Registrar. If the bank fails to comply with the aforesaid directions, the Registrar shall appoint such professional member on the committee of the concerned bank. The professional member shall have all the rights of members inclusive of voting right and the term of such member shall be co-extensive with the term of other elected members.”

Amendment of
section 74D of Guj.
X of 1962.

17. In the principal Act, in section 74D,-

(1) in sub-section (1), -

(i) for the words “or having been elected not functioning within a period of six months after”, the word “before” shall be substituted;

(ii) before the words “the Registrar may”, the words “or having been elected not functioning” shall be inserted;

(2) after sub-section (1), the following sub-section shall be inserted, namely:-

“(1A) The Registrar shall hold election of such society within a period of two months and the Committee shall be constituted before the expiration of that period.”

Amendment of
section 76 of Guj. X
of 1962.

18. In the principal Act, in section 76, after the existing proviso, the following proviso shall be added, namely:-

“Provided further that the qualifications for appointment of the Chief Executive Officer and the Directors of the Central Co-operative Banks and the State Co-operative Bank shall be such, as may be determined by the Reserve Bank of India from time to time :

Provided also that the Registrar of the Co-operative Societies or the Board of the Central Co-operative Banks or the State Co-operative Bank shall remove, at the request of Reserve Bank, such Directors and Chief Executive Officers who do not fulfill the criteria stipulated by Reserve Bank. However, the existing elected Directors holding their post as such Directors on the date of the commencement of the Gujarat Co-operative Societies (Amendment) Act, 2008, shall continue to hold their offices till the expiry of their current remaining term.”

19. In the principal Act, in section 80, after sub-section (2), the following sub-section shall be added, namely:-

Amendment of
section 80 of Guj. X
of 1962.

“(3) Notwithstanding anything contained in this Act or the rules or in the bye-laws, there shall be only one nominee of the State Government in the committee of the State Co-operative Bank or the Central Co-operative Banks where the State Government has subscribed to the share capital of such co-operative banks and no such nomination shall be made where the State Government has not subscribed to the share capital of such co-operative banks and no such nomination shall be made on the committee of a Primary Agricultural Credit Co-operative Society irrespective of whether the State Government has subscribed to the share capital of a society or not.”.

20. In the principal Act, in section 80A, after sub-section (3), the following sub-section shall be added, namely :-

Amendment of
section 80A of Guj.
X of 1962.

“(4) The provisions contained in sub-sections (1) to (3) shall not apply to the societies in the co-operative credit structure.”.

21. In the principal Act, in section 81,-
(1) in sub-section (1),-

Amendment of
section 81 of Guj. X
of 1962.

- (a) in clause (a); the word “or” appearing at the end shall be deleted;
- (b) clause (b) shall be deleted;
- (c) in sub-clause (i), after the words “of the society”, the words “not being the members of the committee removed under this sub-section” shall be inserted;
- (d) (i) for sub-clause (ii), the following sub-clause shall be substituted, namely:-

“(ii) one or more administrators from amongst the members of the society, not being the members of the committee removed under this sub-section, or from amongst the officers of the co-operative department of the State Government.”;

(ii) in paragraph below sub-clause (ii), for the words “two years” and “four years”, the words “one year” and “two years” shall be substituted respectively;

- (2) to sub-section (4), the following proviso shall be added, namely:-

“Provided that the committee or the administrator shall make arrangements for constitution of a new committee of a society in the co-operative credit structure within a period of two months from the date of the order of removal of the said Committee.”;

- (3) in sub-section (6), for the words "Before taking any action", the words "Before making an order in writing removing the committee and appointing another committee in its place or one or more administrators" shall be substituted;
- (4) after sub-section (6), the following sub-section shall be added, namely:-
- "(7) The remuneration of the Administrator appointed under sub-section (1) shall be such as may be determined by the Registrar and the same shall be paid from the fund of the society."

Insertion of new
section 81A in Guj.
X of 1962.

22. In the principal Act, after section 81, the following section shall be inserted, namely :-

Super session of
Committee of
Primary
Agricultural
Credit Co-
operative Society.

"81A. (1) Notwithstanding anything contained in section 81, the supersession of the committee of the State Co-operative Bank or a Central Co-operative Bank under any provision of the Act shall be done only in consultation with Reserve Bank of India.

(2) The committee of a Primary Agricultural Credit Co-operative Society shall be removed by the Registrar only under the following circumstances, namely :-

- (i) if a society incurs losses for three consecutive years; or
- (ii) if serious financial irregularities or frauds have been identified; or
- (iii) if there is perpetual lack of quorum over a period of three months.

(3) The members of the committee of a Primary Agricultural Credit Co-operative Society which has been removed under sub-section (2) shall not be eligible to become a member of the committee for a period of three years from the date of such removal."

Amendment of
section 82 in Guj. X
of 1962.

23. In the principal Act, in section 82, after sub-section (3), the following sub-section shall be added, namely :-

"(4) The provisions of sub-sections (1) to (3) shall apply to the societies in the co-operative credit structure subject to the guidelines, if any, issued by the Reserve Bank of India."

Amendment of
section 84 of Guj.
X of 1962.

24. In the principal Act, in section 84, -

(1) to sub-section (1), the following proviso shall be added, namely :-

"Provided that the audit of the Central Co-operative Banks and the State Co-operative Bank shall be conducted only by the Chartered Accountants from the panel approved by the National Bank."

(2) after sub-section (6), the following sub-section shall be inserted, namely :-

“(6A) The Registrar shall, by an order provide for a special audit of the co-operative credit structure on the basis of the recommendation of the Reserve Bank of India or, as the case may be, the National Bank. A copy of the report of such special audit shall be submitted to the Reserve Bank of India or, as the case may be, the National Bank within the period specified by the Reserve Bank of India or, as the case may be, the National Bank. The provisions relating to audit of accounts of the society made under this section shall also apply to such special audit.”.

(3) after sub-section (9), the following sub-sections shall be inserted, namely :-

“(10) The Registrar shall, in consultation with the National Bank prescribe Prudential Norms including Capital to Risk Weighted Assets Ratio for Primary Agricultural Credit Co-operative Societies.

(11) The Registrar shall, by an order, provide for the periodical inspection by the officers subordinate to the Registrar or by federal society or by financing bank, for a class of society under section 87 or, section 88.”.

25. In the principal Act, in section 115A, after sub-section (2), the following sub-section shall be inserted, namely :-

Amendment of
section 115A of
Guj. X of 1962.

“(2A) Notwithstanding anything contained in this Act or the rules made thereunder, the Registrar shall ensure the implementation of regulatory prescription given by the Reserve Bank of India including supersession and winding up of the State Co-operative Bank and the Central Co-operative Bank and shall appoint the liquidator within a period of one month of being so advised by the Reserve Bank of India.”.

26. In the principal Act, in section 145F, after sub-section (1), the following sub-section shall be inserted, namely:-

Amendment of
section 145F of
Guj. X of 1962.

“(1A) (i) (a) No member of a society in the Central Co-operative Bank and the State Co-operative Bank shall be eligible to be elected as a member in the committee if he is in default for a period of twelve months in payment of dues to the society;

(b) no person elected as a member of a society in the Central Co-operative Bank and the State Co-operative Bank shall be continued as a member if he is in default for a period exceeding twelve months in payment of dues to the society unless the amount in default with due interest is paid to the society;

(c) no member of a Primary Agricultural Credit Co-operative Society shall be eligible to be elected as a member in the committee of the State Co-operative Bank or a Central Co-operative Bank if the society is in default in payment of dues to the co-operative bank unless the default with due interest is paid to the co-operative bank;

(d) no member of a non-credit society who is a member in the committee of a Central Co-operative Bank or the State Co-operative Bank shall be continued as such member if the society commits default for a period exceeding 90 days in payment of dues to the bank.

(ii) The above provisions shall be in addition to and not in derogation of any other provisions for disqualification contained in this Act.”

Amendment of section 146 of Guj. X of 1962. 27. In the principal Act, in section 146, after sub-section (2), the following sub-section shall be added, namely:-

“(3) No Primary Agricultural Credit Co-operative Society shall use the word “bank”, “banker”, “banking” or any other derivative of the word “bank” in its name and the existing society using such name shall be deregistered by the Registrar.”

Amendment of section 161 of Guj. X of 1962. 28. In the principal Act, in section 161, after the existing proviso, the following proviso shall be added, namely:-

“Provided further that the aforesaid provision shall apply to societies in the co-operative credit structure subject to the guidelines issued by the Reserve Bank of India.”

Power to remove difficulty. 29. (1) If any difficulty arises in giving effect to the amendments made by this Act, the State Government may, by order, published in the *Official Gazette*, make such provisions not inconsistent with the provisions of the principal Act, as appears to it to be necessary or expedient for removing the difficulty :

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be, after it is made, be laid before the State Legislature.

Repeal and savings. 30. (1) The Gujarat Co-operative Societies (Amendment) Ordinance, 2007 is hereby repealed. Guj. Ord. 2 of 2007.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act as amended by this Act.



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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
And Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 7th March, 2008 is hereby published for general information.

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 2 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 7th March, 2008).

AN ACT

to make special provision for regulation of admission in the professional technical educational colleges or institutions in the State and fixation of fees in such colleges or institutions and for matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Professional Technical Educational Colleges or Institutions (Regulation of Admission and Fixation of Fees) Act, 2007.

Short title
and
commence-
ment.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires,-

- (a) "Admission Committee" means the Admission Committee constituted in accordance with the provisions of section 4;
- (b) "aided college or institution" means a professional educational college or institution, including the University, run or managed by the trust, society or association of persons or organization, receiving financial aid or grant-in-aid from the State Government or the Central Government;
- (c) "Common Entrance Test" means the entrance test conducted for determination of merits of the candidates for the purpose of admission in the different professional courses;
- (d) "Fee Regulatory Committee" means the Fee Regulatory Committee constituted under section 9;
- (e) "Government college or institution" means a professional educational college or institution run and managed by the State Government;
- (f) "Government" means the Government of Gujarat;
- (g) "Government seats" means, -
 - (i) all the seats of the professional courses in the Government colleges or institutions and in the aided colleges or institutions; and
 - (ii) seventy-five per cent. seats of the professional courses of the total approved seats in the unaided colleges or institutions;
- (h) "Management seats" means twenty-five per cent. seats of the professional courses of the total approved seats in the unaided colleges or institutions including fifteen per cent. Non-Resident Indian seats;
- (i) "Non-Resident Indian seats" means fifteen per cent. seats reserved for children or wards or the dependents for the education purpose, of the Non-Resident Indian, to whom admission is to be given in the professional educational colleges or institutions;
- (j) "prescribed" means prescribed by the rules made under this Act;
- (k) "Professional courses" means, -
 - (i) Bachelor of Engineering and Technology and the Diploma in Engineering;
 - (ii) Bachelor of Pharmacy and the Diploma in Pharmacy;
 - (iii) Bachelor of Architecture and the Diploma in Architecture;

- (iv) Bachelor of Hotel and Tourism Management and the Diploma in Hotel and Tourism Management;
 - (v) Master of Business Administration;
 - (vi) Master of Computer Application; and
 - (vii) such other courses as the State Government may, by notification in the *Official Gazette*, declare;
- (l) "Professional Educational College or Institution" means a college or an institution including the University imparting professional courses by whatever name called, leading to the award of a degree or diploma approved or recognised by the competent statutory authority;
- (m) "Unaided college or institution" means a professional educational college or institution including the University not receiving the financial aid or grant-in-aid from the State Government or the Central Government;
- (n) "University" means a University established under a law made by the Legislature of the State.
3. (1) Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any court or any authority or in any agreement, all the admissions to the professional courses in the professional educational colleges or institutions shall be made in accordance with the provisions of this Act. Admission in professional educational colleges or institutions.
- (2) Any admission made in contravention of the provisions of this Act shall be invalid.
4. (1) The State Government shall, for the purpose of admission of students to the professional educational colleges and institutions, constitute one or more Admission Committees consisting of such number of members as may be prescribed. Different Committees may be constituted for the different professional courses. Constitution of Admission Committee.
- (2) The term of office and other conditions of the members of the Committee shall be such as may be prescribed.
- (3) The Admission Committee shall guide, supervise and control the entire process of admission of students to the professional educational colleges or institutions.
5. (1) For the purpose of admission in the professional courses, each Admission Committee shall prepare the merit list of students based on such criteria and in such ratio as may be prescribed. Preparation of merit list for admission.
- (2) For the purpose of preparing the list of students for admission under sub-section (1), the authority or the body authorised by the State Government in this behalf, shall conduct the common entrance test in the manner as may be prescribed:

Provided that it shall not be necessary to conduct common entrance test for preparing merit list for the admission to such professional courses as may be prescribed.

Admission to Government seats and management seats.

6. The admission of students in the professional educational colleges or institutions shall be given in the following manner, namely, :-

- (i) all the Government seats shall be filled on the basis of merit list prepared by the Admission Committee; and
- (ii) the management seats to be filled by the management of the respective professional educational college or institution shall be on the basis of *inter-se* merit list of the students to be admitted against the management seats :

Provided that no student shall be admitted against the management seat unless his name appears in the merit list prepared by the Admission Committee :

Provided further that where any Non-Resident Indian seat remains vacant, such seat shall be filled in from the management seats:

Provided also that where any management seat remain vacant, such seat shall be filled in from the Government seats.

Minimum qualifying standard for admission.

7. No student shall be admitted in the professional course unless he fulfills the eligibility criteria including the minimum qualifying marks, as may be prescribed.

Reservation in admission.

8. The admission against the Government seats in each course in each professional educational college or institution shall be made in accordance with the reservation policy of the State Government.

Constitution of Fee Regulatory Committee.

9. (1) The State Government shall, for the purpose of determining the fees for admission of students in the professional educational colleges or institutions, constitute a Fee Regulatory Committee consisting of the following members, namely :-

- (i) a retired judge of the High Court nominated by the State Government, who shall be the Chairperson;
- (ii) ex-Vice-Chancellor, to be nominated by the State Government;
- (iii) the Commissioner or the Director, Technical Education, Gujarat State, or an officer of Education Department holding equivalent post, to be nominated by the State Government *ex-officio*, who shall be the Member-Secretary of the committee;

(iv) one member representing unaided professional educational colleges or institutions, to be nominated by the State Government; and

(v) a Chartered Accountant, to be nominated by the State Government;

(2) The term of office and other conditions of the members of the Committee shall be such as may be prescribed.

(3) The Fee Regulatory Committee may adopt its own procedure for the conduct of its business.

10. (1) Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any court or authority or in any agreement, the Fee Regulatory Committee shall determine the fee structure for admission of students in the professional courses. Different fee structure may be determined for admission of students in different professional courses and for different professional educational colleges or institutions.

Powers of
Fee
Regulatory
Committee.

(2) The Fee Regulatory Committee shall have power to, -

(a) require any unaided professional educational college or institution to place before it the proposed fee structure for such college or institution alongwith all the relevant documents and the books of accounts;

(b) verify whether the fee structure proposed by such college or institution is justified;

(c) approve the fee structure for such college or institution or determine other fee structure which shall be charged by such college or institution for admission of students in the professional courses.

(3) The fee structure so determined by the Fee Regulatory Committee shall be binding to the unaided professional educational colleges or institutions for a period of three years. The fee so determined shall be applicable to a student who is admitted to a professional educational college or institution in that academic year and shall not be revised till the completion of his professional course in that college or institution.

(4) The unaided professional educational college or institution shall not be allowed to charge or collect any fee other than the fees determined by the Committee under sub-section (1) and shall not be allowed to collect the fee at a time amounting to more than one term fee from a student in an academic year;

(5) (a) The Fee Regulatory Committee shall have powers for the purpose of making inquiry under this Act, of a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely :-

IV.Ex.-2-2

- (i) summoning and enforcing the attendance of any witness and examining him on oath;
- (ii) requiring the discovery and production of any document;
- (iii) receiving evidence on affidavit; and
- (iv) issuing commission for examination of witnesses for local inspection;

(b) any proceeding before such committee shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

45 of 1860.

Factors for determination of fee. 11. (1) The Fee Regulatory Committee shall determine and fix the fee or fees to be charged by an unaided professional educational college or institution taking into consideration the following factors, namely :-

- (a) the location of the technical professional educational institution;
- (b) the nature of professional course;
- (c) the available infrastructure;
- (d) the expenditure on administration and maintenance;
- (e) the reasonable surplus required for the growth and development of the institution; and
- (f) such other factors, as the Committee may decide or as directed by the State Government.

(2) The fees to be determined by the Committee shall includes, -

- (i) the tuition fees;
- (ii) library fees;
- (iii) laboratory fees;
- (iv) computer fees;
- (v) caution money; and
- (vi) such other fees, as the Committee may decide or as directed by the State Government.

Prohibition of capitation fee.

12. No capitation fee shall be charged or collected by or on behalf of an unaided professional educational colleges or institution or by any person who is in charge of or is responsible for the management of such college or institution from or in relation to any student in consideration of his admission to or continuance in, any professional course of study in such college or institution.

Other course of action for contravention of provisions of Act.

13. (1) Where the Admission Committee, on receipt of any complaint or otherwise satisfied after due inquiry, that the unaided professional educational college or institution has given admission to a student in contravention of the provisions of this Act or has violated any of the provisions of this Act, it may, -

- (i) direct the concerned college or institution to admit the student as per the merit list in place of the student who has been admitted in contravention of the provisions of this Act;

- (ii) direct the concerned college or institution to refund the fee to the student so admitted in contravention of the provisions of this Act;
- (iii) recommend to the State Government, concerned University or the statutory authority for taking appropriate action against such college or institution.

(2) Where the Fee Regulatory Committee, on receipt of any complaint or otherwise satisfied after due inquiry, that the unaided professional educational college or institution has collected the capitation fee or the fees in excess of the fee determined by the Fee Regulatory Committee under sub-section (1) of section 10, it may, -

- (i) direct the concerned college or institution to refund the fee so collected in excess of the fee determined by the Committee or the refund of capitation fee so collected;
- (ii) recommend to the State Government, concerned University or the statutory authority for taking appropriate action against such college or institution.

14. Whoever contravenes any of the provisions of this Act or the rules made thereunder shall, on conviction, be punishable with fine which may extend to rupees twenty lakhs. Penalties.

15. No court shall take cognizance of any offence punishable under this Act except on a complaint made by an officer authorized in this behalf by the State Government, by notification in the *Official Gazette*. Cognizance of offence.

16. All the members of the Committee and the officers and employees while acting or purporting to act in pursuance of the provisions of this Act or rules made thereunder, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Members of Committee, officers and employees to be public servant.

XLV of 1860.

17. No suit, prosecution or other legal proceeding shall lie against any member of the Committee, officer or employee for anything which is in good faith done or purported to be done in pursuance of the provisions of this Act or any rules made there under. Protection of action taken in good faith.

18. The State Government may, from time to time, issue such directions not inconsistent with the provisions of this Act, to any professional educational college or institution or to the Committee or the officer, as it may think fit in this regard, for the purpose of carrying out the provisions of this Act, rules or orders made thereunder and the professional educational colleges or institutions or the Committee or the officers shall be bound by such direction. Power of State Government to give directions.

Act to override
other State
laws.

19. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other State law for the time being in force.

Power of State
Government to
make rules.

20. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to the rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Power to
remove
difficulties.

21. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no order under sub-section (1) shall be made after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.



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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
And Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 7th March, 2008 is hereby published for general information.

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 3 OF 2008.

(First published, after having received the assent of the Governor in the "*Gujarat Government Gazette*", on the 7th March, 2008).

AN ACT

to make special provision for regulation of admission in the professional medical educational colleges or institutions in the State and fixation of fees in such colleges or institutions and for matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-eighth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Professional Medical Educational Colleges or Institutions (Regulation of Admission and Fixation of Fees) Act, 2007. Short title and commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires,-

- (a) "Admission Committee" means the Admission Committee constituted in accordance with the provisions of section 4;
- (b) "aided college or institution" means a professional educational college or institution, including the University, run or managed by the trust, society or association of persons or organization, receiving financial aid or grant-in-aid from the State Government or the Central Government;
- (c) "Common Entrance Test" means the entrance test conducted for determination of merits of the candidates for the purpose of admission in the different professional courses;
- (d) "Fee Regulatory Committee" means the Fee Regulatory Committee constituted under section 9;
- (e) "Government college or institution" means a professional educational college or institution run and managed by the State Government;
- (f) "Government" means the Government of Gujarat;
- (g) "Government seats" means, -
 - (i) all the seats of the professional courses in the Government colleges or institutions and in the aided colleges or institutions; and
 - (ii) seventy-five per cent. seats of the professional courses of the total approved seats in the unaided colleges or institutions;
- (h) "Management seats" means twenty-five per cent. seats of the professional courses of the total approved seats in the unaided colleges or institutions including fifteen per cent. Non-Resident Indian seats;
- (i) "Non-Resident Indian seats" means fifteen per cent. seats reserved for children or wards or the dependents for the education purpose, of the Non-Resident Indian, to whom admission is to be given in the professional educational colleges or institutions;
- (j) "prescribed" means prescribed by the rules made under this Act;

(k) "professional courses" means the courses conducted in any of the following disciplines, namely:-

(i) Medicine, Dentistry, Ayurveda, Homeopathy, Physiotherapy and Nursing, and

(ii) such other courses as the State Government may, by notification in the *Official Gazette*, declare;

(l) "Professional Educational College or Institution" means a college or an institution including the University imparting professional courses by whatever name called, leading to the award of a degree or diploma approved or recognised by the competent statutory authority;

(m) "Unaided college or institution" means a professional educational college or institution including the University not receiving the financial aid or grant-in-aid from the State Government or the Central Government;

(n) "University" means a University established under any law made by the Legislature of the State.

3. (1) Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any court or authority or in any agreement, all the admissions to the professional courses in the professional educational colleges or institutions shall be made in accordance with the provisions of this Act. **Admission in professional educational colleges or institutions.**

(2) Any admission made in contravention of the provisions of this Act shall be invalid.

4. (1) The State Government shall, for the purpose of admission of students to the professional educational colleges and institutions, constitute one or more Admission Committees consisting of such number of members as may be prescribed. Different Committees may be constituted for the different professional courses. **Constitution of Admission Committee.**

(2) The term of office and other conditions of the members of the Committee shall be such as may be prescribed.

(3) The Admission Committee shall guide, supervise and control the entire process of admission of students to the professional educational colleges or institutions.

Preparation
of merit list
for
admission.

5. (1) For the purpose of admission in the professional courses, each Admission Committee shall prepare the merit list of students based on such criteria and in such ratio as may be prescribed.

(2) For the purpose of preparing the merit list of students for admission under sub-section (1), the authority or the body authorised by the State Government in this behalf, shall conduct the common entrance test in the manner as may be prescribed:

Provided that it shall not be necessary to conduct common entrance test for preparing merit list for the admission to such professional course as may be prescribed.

Admission to
Government
seats and
management
seats.

6. The admission of students in the professional educational colleges or institutions shall be given in the following manner, namely, :-

- (i) all the Government seats shall be filled on the basis of merit list prepared by the Admission Committee; and
- (ii) the management seats to be filled by the management of the respective professional educational college or institution shall be on the basis of *inter-se* merit list of the students to be admitted against the management seats :

Provided that no student shall be admitted against the management seat unless his name appears in the merit list prepared by the Admission Committee:

Provided further that where any Non-Resident Indian seat remains vacant, such seat shall be filled in from the management seats:

Provided also that where any management seat remains vacant, such seat shall be filled in from the Government seats.

Minimum
qualifying
standard for
admission.

7. No student shall be admitted in the professional course unless he fulfills the eligibility criteria including the minimum qualifying marks, as may be prescribed.

Reservation in
admission.

8. The admission-against the Government seats in each course in each professional educational college or institution shall be made in accordance with the reservation policy of the State Government.

Constitution of
Fee Regulatory
Committee.

9. (1) The State Government shall, for the purpose of determining the fees for admission of students in the professional colleges or institutions, constitute a Fee Regulatory Committee consisting of the following members, namely :-

- (i) a retired judge of the High Court nominated by the State Government, who shall be the Chairperson;
- (ii) ex-Vice-Chancellor of a University, to be nominated by the State Government;
- (iii) the Commissioner of Health, Medical Services, Medical Education and Research, Gujarat State, or an officer of Health and Family Welfare Department holding equivalent post, to be nominated by the State Government *ex-officio*, who shall be the Member-Secretary of the Committee;
- (iv) one member representing unaided professional educational colleges or institutions, to be nominated by the State Government; and
- (v) a Chartered Accountant, to be nominated by the State Government.

(2) The term of office and other conditions of the members of the Committee shall be such as may be prescribed.

(3) The Fee Regulatory Committee may adopt its own procedure for the conduct of its business.

10. (1) Notwithstanding anything contained in any other law for the time being in force or in any judgment, decree or order of any court or authority or in any agreement, the Fee Regulatory Committee shall determine the fee structure for admission of students in the professional courses. Different fee structure may be determined for admission of students in different professional courses and for different professional educational colleges or institutions.

**Powers of Fee
Regulatory
Committee.**

- (2) The Fee Regulatory Committee shall have power to, -
- (a) require any unaided professional educational college or institution to place before it the proposed fee structure for such college or institution alongwith all the relevant documents and the books of accounts;
 - (b) verify whether the fee structure proposed by such college or institution is justified;
 - (c) approve the fee structure for such college or institution or determine other fee structure which shall be charged by such college or institution for admission of students in the professional courses.

(3) The fee structure so determined by the Fee Regulatory Committee shall be binding to the unaided professional educational colleges or institutions for a period of three years. The fee so determined shall be applicable to a student who is admitted to a professional educational college or institution in that academic year and shall not be revised till the completion of his professional course in that college or institution.

(4) The unaided professional educational college or institution shall not be allowed to charge or collect any other fees than the fees determined by the Committee under sub-section (1) and shall not be allowed to collect the fee at a time amounting to more than one term fee from a student in an academic year;

(5) (a) The Fee Regulatory Committee shall have powers for the purpose of making inquiry under this Act, of a Civil Court under the Code of Civil Procedure, 1908 while trying a suit in respect of the following matters, namely :-

- (i) summoning and enforcing the attendance of any witness and examining him on oath;
- (ii) requiring the discovery and production of any document;
- (iii) receiving evidence on affidavit; and
- (iv) issuing commission for examination of witnesses for local inspection.

(b) Any proceeding before such Committee shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code.

45 of 1860.

**Factors for
determination
of fee.**

11. (1) The Fee Regulatory Committee shall determine and fix the fee or fees to be charged by an unaided professional educational college or institution for admission of students in the professional courses, taking into consideration the following factors, namely :-

- (a) the location of the professional educational college or institution;
- (b) the nature of professional course;
- (c) the available infrastructure;
- (d) the expenditure on administration and maintenance;
- (e) the reasonable surplus required for the growth and development of the college or institution; and
- (f) such other factors, as the Committee may decide or as directed by the State Government.

(2) The fees to be determined by the Committee shall includes, -

- (i) the tuition fees;
- (ii) library fees;
- (iii) laboratory fees;
- (iv) computer fees;
- (v) caution money; and
- (vi) such other fees, as the Committee may decide or as directed by the State Government.

12. No capitation fee shall be charged or collected by or on behalf of an unaided professional educational colleges or institution or by any person who is in charge of or is responsible for the management of such college or institution from or in relation to any student in consideration of his admission to or continuance in, any professional course in such college or institution. **Prohibition of capitation fee.**

13. (1) Where the Admission Committee, on receipt of any complaint or otherwise, is satisfied after due inquiry that the unaided professional educational college or institution has given admission to a student in contravention of the provisions of this Act or has violated any of the provisions of this Act, it may, - **Other course of action for contravention of provisions of Act.**

- (i) direct the concerned college or institution to admit the student as per the merit list in place of the student who has been admitted in contravention of the provisions of this Act;
- (ii) direct the concerned college or institution to refund the fee to the student so admitted in contravention of the provisions of this Act;
- (iii) recommend to the State Government, concerned University or the statutory authority for taking appropriate action against such college or institution.

(2) Where the Fee Regulatory Committee, on receipt of any complaint or otherwise, is satisfied after due inquiry that the unaided professional educational college or institution has collected the capitation fee or the fees in excess of the fee determined by the Fee Regulatory Committee under sub-section (1) of section 10, it may, -

- (i) direct the concerned college or institution to refund the fee so collected in excess of the fee determined by the Committee or refund the capitation fee so collected;
- (ii) recommend to the State Government, concerned University or the statutory authority for taking appropriate action against such college or institution.

14. Whoever contravenes any of the provisions of this Act or the rules made thereunder shall, on conviction, be punishable with fine which may extend to rupees twenty lakhs. **Penalties.**

15. No court shall take cognizance of any offence punishable under this Act except on a complaint made by an officer authorized by the State Government in this behalf, by notification in the *Official Gazette*. **Cognizance of offence.**

XLV of 1860.

Members of Committee, officers and employees to be public servant. 16. All the members of the Committee and the officers and employees while acting or purporting to act in pursuance of the provisions of this Act or rules made thereunder, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

Protection of action taken in good faith. 17. No suit, prosecution or other legal proceeding shall lie against any member of the Committee, officer or employee of the Government for anything which is in good faith done or purported to be done in pursuance of the provisions of this Act or any rules made there under.

Powër of State Government to give directions. 18. The State Government may, from time to time, issue such directions not inconsistent with the provisions of this Act, to any professional educational college or institution or to the Committee or the officer, as it may think fit in this regard, for the purpose of carrying out the provisions of this Act, rules or orders made thereunder and the professional educational colleges or institutions or the Committee or the officers shall be bound by such direction.

Act to override other State laws. 19. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other State law for the time being in force.

Powër of State Government to make rules. 20. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to the rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(3) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Power to remove difficulties. 21. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no order under sub-section (1) shall be made after the expiry of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.



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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
And Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 7th March, 2008 is hereby published for general information.

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 4 OF 2008

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 7th Mach, 2008).

AN ACT

further to amend the Gujarat Legislative Assembly Members
(Removal of Disqualifications) Act, 1960.

It is hereby enacted in the Fifty-ninth Year of the Republic of India, as follows:-

1. (1) This Act may be called the Gujarat Legislative Assembly Members (Removal of Disqualifications) (Amendment) Act, 2008. Short title and commencement.

(2) It shall come into force at once.

2. In the Gujarat Legislative Assembly Members (Removal of Disqualifications) Act, 1960, in the Schedule,- Amendment of Schedule to Guj. I of 1960.

Guj. I of 1960.

(1) after entry 1, the following entry shall be inserted, namely:-

“1A. Any office held by a Minister, Minister of State or Deputy Minister, whether *ex-officio* or by name.”;

(2) in the entry 11,-

(i) for the words “The office of Chairman or member of any Committee or body appointed by the Central or State Government”, the words “The office of Chairman, Vice-Chairman, Director, Secretary or Member of any Committee or Statutory body appointed by the Central or State Government” shall be substituted;

(ii) in the proviso,-

(a) for the words “Chairman or any Member of such Committee or body”, the words “Chairman, Vice-Chairman, Director, Secretary or Member of such Committee or Statutory body” shall be substituted;

(b) the words “Chairman or Member” at the end shall be deleted;

(3) in the entry 24, after the words “Government Chief Whip”, the words “ Government Deputy Chief Whip or Government Whip” shall be added.



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PART IV

Acts of Gujarat Legislature and Ordinance Promulgated
and Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 15th March, 2008 is hereby published for general information.

H. D. VYAS,
Secretary to Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 15 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 15th March, 2008)

AN ACT

to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2008.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. This Act may be called the Gujarat (Supplementary) Appropriation Act, 2008. Short title.

Issue of
Rs. 28,56,09,75,000
from and out of the
Consolidated Fund
of the State of
Gujarat for the
financial year
2007-2008.

2. From and out of the Consolidated Fund of the State of Gujarat, there shall be paid and applied sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of two thousand eight hundred fifty-six crores, nine lakhs, seventy-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year ending on the thirty-first day of March, 2008, in respect of the services and purposes specified in column 2 of the Schedule.

Appropriation.

3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

SCHEDULE
(See Section 2 and 3)

No. of Vote / Appropriation.	Services and Purposes.	Revenue/ Capital.		Sums not exceeding	
			Voted.	Charged on the Consolidated Fund.	Total.
1	2			3	
			Rs.	Rs.	Rs.
1	Agriculture and Co-operation Department	Revenue	8595000		8595000
2	Agriculture	Revenue	896972000	142000	897114000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	516250000		516250000
4	Animal Husbandry and Dairy Development	Revenue	49870000	310000	50180000
5	Co-operation	Revenue	118067000		118067000
6	Fisheries	Revenue	951127000		951127000
7	Other Expenditure pertaining to Agriculture and Co-operation Department	Revenue		94000	94000
		Capital	1500000		1500000
8	Education Department	Revenue	3388000		3388000
9	Education	Revenue	2342569000	697806000	3040375000
		Capital	1000		1000
10	Other Expenditure pertaining to Education Department	Revenue	2125000		2125000
11	Energy and Petrochemicals Department	Revenue	1388000		1388000
12	Tax Collection Charges (Energy and Petrochemicals Department)	Revenue	6960000		6960000
13	Energy Projects	Revenue	909401000		909401000
		Capital	2000		2000
15	Finance Department	Revenue	4165000		4165000
16	Tax Collection Charges (Finance Department)	Revenue	185467000		185467000
17	Treasury and Accounts Administration	Revenue	58630000		58630000
18	Pension and other Retirement Benefits.	Revenue	2575343000		2575343000
21	Food, Civil Supplies and Consumer Affairs Department	Revenue	3864000		3864000

No. of Vote / Appro- priation.	Services and Purposes.	Revenue/ Capital.		Sums not exceeding	
			Voted.	Charged on the Consolidated Fund.	Total.
1	2			3	
			Rs.	Rs.	Rs.
22	Civil Supplies	Revenue	32797000		32797000
23	Food	Revenue	1325000		1325000
25	Forest and Environment Department	Revenue	1716000		1716000
26	Forest	Revenue	213619000	1050000	214669000
		Capital	1116000		1116000
27	Environment	Revenue	3250000		3250000
29	Governor	Revenue		2815000	2815000
31	Election	Revenue	310444000		310444000
32	Public Service Commission	Revenue	25850000	12713000	38563000
33	General Administration Department	Revenue	50413000		50413000
34	Economic Advice and Statistics	Revenue	17011000		17011000
35	Other Expenditure pertaining to General Administration Department	Revenue	265205000	2000	265207000
		Capital	4113000		4113000
36	State Legislature	Revenue	1340000		1340000
38	Health and Family Welfare Department	Revenue	2650000		2650000
39	Medical and Public Health	Revenue	323444000	12000	323456000
		Capital	41780000		41780000
40	Family Welfare	Revenue	59804000		59804000
41	Other Expenditure pertaining to Health and Family Welfare Department	Revenue	315000		315000
		Capital	5000000		5000000
42	Home Department	Revenue	1490000		1490000
43	Police	Revenue	1237151000	235649000	1472800000
44	Jails	Revenue	47179000	100000	47279000
45	State Excise	Revenue	24215000		24215000
46	Other Expenditure pertaining to Home Department	Revenue	1170000	99000	1269000
		Capital	97811000		97811000
47	Industries and Mines Department	Revenue	5165000		5165000
48	Stationery and Printing	Revenue	505000		505000
49	Industries	Revenue	36700000		36700000
		Capital		590000	590000

No. of Vote/ Appropriation.	Services and Purposes.	Revenue/ Capital.		Sums not exceeding	
			Voted.	Charged on the Consolidated Fund.	Total.
1	2			3	
			Rs.	Rs.	Rs.
50	Mines and Minerals	Revenue	60000		60000
52	Other Expenditure pertaining to Industries and Mines Department	Revenue		266000	266000
53	Information and Broadcasting Department	Revenue	1126000		1126000
54	Information and Publicity	Revenue	118515000		118515000
55	Other Expenditure pertaining to Information and Broadcasting Department	Revenue	1198000		1198000
56	Labour and Employment Department	Revenue	790000		790000
57	Labour and Employment	Revenue	12867000		12867000
59	Legal Department	Revenue	2920000		2920000
60	Administration of Justice	Revenue	266885000	1000	266886000
61	Other Expenditure pertaining to Legal Department	Revenue	25164000		25164000
62	Legislative and Parliamentary Affairs Department	Revenue	2693000		2693000
63	Other Expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital	2200000		2200000
64	Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	13765000		13765000
65	Narmada Development Scheme	Capital	2000000000		2000000000
66	Irrigation and Soil Conservation	Revenue	1213954000	4469000	1218423000
		Capital		24979000	24979000
67	Water Supply	Capital	648093000		648093000
68	Other Expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	1000000	70501000	71501000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	4950000		4950000
70	Community Development	Revenue	321420000		321420000

No. of Vote / Appropriation.	Services and Purposes.	Revenue/ Capital.		Sums not exceeding	
			Voted.	Charged on the Consolidated Fund.	Total.
1	2			3	
			Rs.	Rs.	Rs.
71	Rural Housing and Rural Development	Revenue	113886000	4436000	118322000
72	Compensation and Assignments	Revenue	471342000		471342000
74	Transport	Revenue	153567000		153567000
		Capital	350000000		350000000
75	Other Expenditure pertaining to Ports and Transport Department	Revenue	1695000		1695000
77	Tax Collection Charges (Revenue Department)	Revenue	159823000		159823000
78	District Administration	Revenue	11972000		11972000
79	Relief on account of Natural Calamities	Revenue		32000	32000
80	Dangs District	Revenue	11388000		11388000
81	Compensation and Assignments	Revenue		1000	1000
82	Other Expenditure pertaining to Revenue Department	Revenue	697293000		697293000
		Capital	995000		995000
84	Non-Residential Buildings	Revenue	105194000	487000	105681000
		Capital	14000	22000	36000
85	Residential Buildings	Revenue	1005000		1005000
86	Roads and Bridges	Revenue	185874000	7867000	193741000
		Capital		23041000	23041000
88	Other Expenditure pertaining to Roads and Buildings Department	Revenue		83339000	83339000
89	Science and Technology Department	Revenue	1525000		1525000
91	Social Justice and Empowerment Department	Revenue	15220000		15220000
94	Other Expenditure pertaining to Social Justice and Empowerment Department	Capital	112000		112000
95	Scheduled Castes Sub Plan	Revenue	778688000		778688000
		Capital	1000		1000
96	Tribal Area Sub-Plan	Revenue	523924000	11308000	535232000
		Capital		5322000	5322000

No. of Vote / Appropriation.	Services and Purposes.	Revenue/ Capital.		Sums not exceeding	
			Voted.	Charged on the Consolidated Fund.	Total.
1	2			3	
			Rs.	Rs.	Rs.
97	Sports, Youth and Cultural Activities Department	Revenue	973000		973000
98	Youth Services and Cultural Activities	Revenue	27815000		27815000
100	Urban Development and Urban Housing Department	Revenue	1735000		1735000
101	Urban Housing	Revenue		15910000	15910000
102	Urban Development	Revenue	7287846000	572000	7288418000
		Capital	1000		1000
104	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue	349000		349000
105	Women and Child Development Department	Revenue	363000		363000
106	Other Expenditure pertaining to Women and Child Development Department	Revenue	368577000	1000	368578000
Total :-		Revenue	24204300000	1149982000	25354282000
		Capital	3152739000	53954000	3206693000
Grand Total :-			27357039000	1203936000	28560975000



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The Following Act of the Gujarat Legislature, having been assented to by the Governor on the 29th March, 2008 is hereby published for general information.

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 6 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 29th March, 2008).

AN ACT

further to amend the Bombay Shops and Establishments Act, 1948 in its application to the State of Gujarat.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Bombay Shops and Establishments (Gujarat Amendment) Act, 2008.

Short title, extent
and
commencement.

(2) It extends to the whole of the State of Gujarat.

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. In the Bombay Shops and Establishments Act, 1948, in its application to the State of Gujarat, in section 7, in sub-section (5), for the words "three years", the words "five years" shall be substituted.

Amendment of
section 7 of Bom.
LXXIX of 1948.

Bom. LXXIX of
1948.

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H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 7 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 29th March, 2008).

AN ACT

further to amend the Gujarat Tax on Entry of Specified Goods into
Local Areas Act, 2001.

It is hereby enacted in the Fifty-ninth Year of the Republic of India
as follows:-

1. (1) This Act may be called the Gujarat Tax on Entry of Specified Goods into Local Areas (Amendment) Act, 2008.

Short title and
commencement.

(2) It shall come into force on the 1st April, 2008.

2. In the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001 (hereinafter referred to as "the principal Act"), in section 2, in clause (k), after the words "the Schedule", the words, brackets, figures and letter "and such other goods as the State Government may, by notification.

Amendment of
section 2 of
Guj. 22 of
2001.

Guj. 22 of
2001.

in the *Official Gazette*, specify under sub-section (1A) of section 3" shall be added.

Amendment of
section 3 of
Guj. 22 of
2001.

3. In the principal Act, in section 3, after sub-section (1), the following sub-section shall be inserted, namely:-

"(1A) Subject to such conditions as it may impose, the State Government may, if it is necessary so to do in the public interest to redress an inequitable situation or for sufficient and reasonable cause for removing discrimination between goods entering into the local areas from any place outside the State but not being a place outside the territory of the Union of India, for consumption, use or sale therein and goods manufactured or produced in the State, specify by notification in the *Official Gazette*, such other goods as the specified goods."

Substitution of
Schedule to
Guj. 22 of
2001.

4. In the principal Act, for the existing Schedule, the following Schedule shall be substituted, namely:-

"SCHEDULE
(See sections 2(k) and 3)

Sr. No.	Specified Goods.	Maximum rate of Tax.
1	2	3
1.	Motor vehicles including chassis of motor vehicles and the body which is built on chassis of motor vehicles.	Twenty per cent.
2.	Cement.	Twenty per cent.
3.	Marbles or Granite (raw or polished).	Twenty per cent.
4.	Kota stones.	Twenty per cent.
5.	Naphtha.	Twenty per cent.
6.	Light Diesel Oil.	Twenty per cent.
7.	High Speed Diesel Oil.	Twenty-five per cent.
8.	Yarn of all types except Nylon Yarn, Polyester Viscose Yarn and Cotton Yarn.	Twenty per cent.
9.	Such other goods as may be specified by the State Government by notification in the <i>Official Gazette</i> .	Twenty per cent."



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H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.

GUJARAT ACT NO. 8 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 29th March, 2008).

AN ACT

further to amend the Gujarat Municipal Finance Board Act, 1979.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Municipal Finance Board (Amendment) Act, 2008.

Short title and
commencement.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Guj. 12 of 1979.

2. In the Gujarat Municipal Finance Board Act, 1979, in section 4, in sub-section (1), -

Amendment of
section 4 of Guj. 12
of 1979.

- (1) in clause (ii), the words "out of whom at least one shall be a woman" shall be added at the end;
- (2) in clause (iii), the words "out of whom at least one shall be a woman" shall be added at the end."



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H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.

GUJARAT ACT NO. 9 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 29th March, 2008).

AN ACT

further to amend the Gujarat Value Added Tax Act, 2003.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Value Added Tax (Amendment) Act, 2008. Short title and commencement.
- (2) It shall come into force on the 1st April, 2008.

Amendment of
section 2 of Guj.
1 of 2005.

2. In the Gujarat Value Added Tax Act, 2003 (hereinafter referred to as "the principal Act"), in section 2, -

Guj. 1 of
2005.

(1) before clause (1), the following clause shall be inserted, namely :-

"(1A) "additional tax" means the additional tax leviable and payable under sub-section (1A) of section 7 or sub-section (6) of section 9;"

(2) after clause (36), the following clause shall be inserted, namely :-

"(37) "zero rated sale" means a sale of goods by a registered dealer to another registered dealer on which the rate of tax leviable shall be zero but tax credit on the purchase related to that sale is admissible."

Insertion of new
section 5A in
Guj. 1 of 2005.

3. In the principal Act, after section 5, the following section shall be inserted, namely:-

Zero rated
sale.

"5A. The following sale shall be zero rated sale for the purpose of this Act and tax credit on the purchase related to such sale shall be allowed subject to such conditions as may be prescribed:-

- (1) Sale of goods to the Developer or Co-developer of Special Economic Zone as defined in the Gujarat Special Economic Zone Act, 2004; or
- (2) sale of goods to a unit carrying on its business in the processing area or in the demarcated area of Special Economic Zone and approved as such by the Approval Committee as defined in the Gujarat Special Economic Zone Act, 2004:

Guj. 11 of
2004.

Guj. 11 of
2004.

Provided that the sale of goods specified in Schedule III shall not be zero rated sale:

Provided further that the sale of certain goods or sale of goods by any dealer or class of dealers as may be specified by the State Government by notification in the *Official Gazette*, shall not be zero rated sale."

Amendment of
section 7 of Guj.
1 of 2005.

4. In the principal Act, in section 7, after sub-section (1), the following sub-section shall be inserted, namely:-

"(1A) Subject to the provisions of this Act, there shall be further levied an additional tax on the turnover of sales of goods liable to be taxed under sub-section (1), at the rate of—

- (i) two and half paise in the rupee on the goods specified in the entries at serial numbers 25, 46B, 48A, 49A, 49B, 51A and 87 in Schedule II, and
- (ii) one paise in the rupee on the goods specified in the entries in Schedule II other than the entries mentioned in clause (i) above :

Provided that the additional tax shall not be levied on the sale of, -

74 of 1956.

- (a) goods declared to be of special importance in section 14 of the Central Sales Tax Act, 1956;
- (b) goods specified in entry at serial number 13 in Schedule II; and
- (c) such goods as the State Government may, by notification in the *Official Gazette*, specify.”

5. In the principal Act, in section 9, after sub-section (4), the following sub-sections shall be inserted, namely:-

Amendment
of section 9
of Guj. 1 of
2005.

“(5) Where a dealer liable to pay tax under this Act purchases taxable goods sale of which is zero rated under section 5A and the goods so purchased by him are --

- (i) consigned or dispatched for branch transfer or to his agent outside the State,
- (ii) used as raw materials in the manufacture or in the packing of goods so dispatched outside the State in the course of branch transfer or consignment or to his agent outside the State,
- (iii) used as fuel for the manufacture of goods,
- (iv) used as raw materials or capital goods in manufacture of goods specified in Schedule I or goods exempt from the whole of the tax by a notification under sub-section (2) of section 5 or in the packing of goods so manufactured,
- (v) used as fuel or capital goods in generation of electrical energy including captive power,
- (vi) not connected with his business,
- (vii) used as fuel in motor vehicles,
- (viii) used as capital goods in transfer of property in goods (whether as goods or in some other form) involved in execution of works contract,
- (ix) used for transferring the right to use for any purpose (whether or not for a specified period), for cash, deferred payment or other valuable considerations, or
- (x) used for any other purpose as may be specified by the State Government by notification in the *Official Gazette*,

then such dealer shall be liable to pay purchase tax on the turnover of such purchases at the rate set out against each of such goods specified in Schedule II.

(6) Subject to the provisions of this Act, there shall be further levied an additional tax on the turnover of purchases of goods liable to be taxed under sub-section (1), (2), (3), (4) or (5), at the rate of -

- (i) two and half paise in the rupee on the goods specified in the entries at serial numbers 25, 46B, 48A, 49A, 49B, 51A and 87 in Schedule II, and
- (ii) one paise in the rupee on the goods specified in the entries in Schedule II other than the entries mentioned in clause (i) above :

Provided that the additional tax shall not be levied on the purchase of, -

- (a) goods declared to be of special importance under section 14 of the Central Sales Tax Act, 1956;
- (b) goods specified in entry at serial number 13 in Schedule II; and
- (c) such goods as the State Government may, by notification in the *Official Gazette*, specify."

74 of 1956.

Amendment of
section 11 of Guj.
1 of 2005.

6. In the principal Act, in section 11, -

- (1) in sub-section (1), in clause (a), in sub-clause (ii), for the words, brackets and figures "sub-section (1) or (2)", the words, brackets and figures "sub-section (1), (2), (5) or (6)" shall be substituted;
- (2) in sub-section (3), in clause (b) and in the proviso to clause (b), for the words "turnover of purchases", the words "taxable turnover of purchases within the State" shall be substituted;
- (3) in sub-section (5), the existing paragraph below clause (p) shall be numbered as paragraph (I) and after paragraph (I) as so numbered, the following paragraphs shall be inserted, namely:-

"(II) Notwithstanding anything contained in clause (d) or (dd) in this sub-section and subject to such conditions and in such manner as may be prescribed, a registered dealer shall be allowed to claim tax credit for the taxable goods held in stock on the date of registration which are purchased after 1st April, 2008 and during the period of one year ending on the date of registration.

(III) Notwithstanding anything contained in clause (nn) in this sub-section and subject to such conditions and in such manner as may be prescribed, a registered dealer, whose permission to pay *lump sum* tax under section 14, -

- (a) is no longer valid on account of total turnover exceeding rupees fifty lakhs, or
- (b) is cancelled on request by such dealer,

and becomes liable to pay tax under section 7, shall be allowed to claim tax credit for the taxable goods held in stock which are purchased after 1st April, 2008 and during the period of one year ending on the date of liability to pay tax under section 7.”.

7. In the principal Act, in section 14,-

Amendment of
section 14 of Guj.
1 of 2005.

(a) in sub-section (1), in clause (a), in the proviso, -

(1) in clause (ii), -

- (i) before the words “purchases the goods”, the words “has purchased in the previous year or” shall be inserted;
- (ii) before the words “imports”, the words “has imported in the previous year or” shall be inserted;

(2) in clause (iii), before the words “receives the goods”, the words “has received in the previous year or” shall be inserted;

(3) in clause (iv), before the words “engaged in the”, the words “was engaged in the previous year or” shall be inserted;

(4) in clause (v), before the words “effects the sales”, the words “has effected in the previous year or” shall be inserted;

(b) in sub-section (4), for the words, brackets and figures “purchase tax leviable under sub-sections (1) and (3)”, the words, brackets and figures “tax leviable under sub-sections (1), (3) and (6)” shall be substituted.

8. In the principal Act, in section 14B, in sub-section (5), for the words, brackets and figures “sub-sections (1), (3) and (4) of section 9”, the words, brackets and figures “sub-sections (1), (3), (4) and (6) of section 9” shall be substituted.

Amendment of
section 14B of
Guj. 1 of 2005.

9. In the principal Act, in section 59B, -

Amendment of
section 59B of
Guj. 1 of 2005.

(1) in sub-section (3), in clauses (a) and (b), for the words “equal to two paise in a rupee”, the words “at the rate as may be specified by the State Government by notification in the *Official Gazette*” shall be substituted;

(2) sub-section (15) shall be deleted.

10. In the principal Act, in Schedule I, in the entry at serial No. 23, the sub-entry (ii) shall be deleted.

Amendment of
Schedule I to
Guj. 1 of 2005.

Amendment
of Schedule
II to Guj. 1
of 2005.

11. In the principal Act, in Schedule II, -

(1) for the entry at serial No. 58A, the following entry shall be substituted, namely :-

1	2	3
"58A	Machinery (including spare parts, accessories and components thereof) used in manufacture of goods, excluding domestic appliances (whether fitted or not with electric motor) such as grinder, mixer, grinder-cum-mixer, juicer, blender, water purifier, flour mill, toaster, oven, etc.	Four paise in the rupee";

(2) in the entry at serial No. 87, for the word and figure "Schedule I", the words and figures "Schedule I or Schedule III" shall be substituted.



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H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.

GUJARAT ACT NO. 10 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 29th March, 2008).

AN ACT

further to amend the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2008. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment of
long title of
President's Act
No. 11 of 1976.

2. In the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (hereinafter referred to as "the principal Act"), in the long title, for the word "State", the words "Panchayats, Municipalities, Municipal Corporations and the State" shall be substituted.

President's Act No.
11 of 1976.

Amendment of
section 2 of
President's Act
No. 11 of 1976.

3. In the principal Act, in section 2, -

- (1) after clause (a), the following clause shall be inserted, namely :-

"(aa) "Designated Authority" means, -

- (i) a Municipal Corporation of a City constituted under section 5 of the Bombay Provincial Municipal Corporations Act, 1949;

Bom. LIX of 1949.

- (ii) a Municipality as defined in clause (14) of section 2 of the Gujarat Municipalities Act, 1963;

Guj. 34 of 1964.

- (iii) (a) a village panchayat constituted under section 9 of the Gujarat Panchayats Act, 1993;

Guj. 18 of 1993.

(b) a taluka panchayat constituted under section 10 of the said Act; and

(c) a district panchayat constituted under section 11 of the said Act;

or, as the case may be, the State Government, and includes, where such Municipal Corporation, Municipality or, as the case may be, Panchayat has been superseded or dissolved, a person or persons appointed to exercise the powers or to perform the functions of such Municipal Corporation, Municipality or Panchayat, designated as such, subject to such conditions and for such class of persons mentioned in column 2 of Schedule I for such area, by the State Government by notification in the *Official Gazette* for the purposes of levy and collection of tax under this Act;";

- (2) in clause (d), the following explanation shall be added, namely :-

"*Explanation.*- Every branch of a firm, company, corporation or other corporate body, any society, club or association shall be deemed to be a person and a separate assessee for the purpose of levy of tax under this Act;".

Amendment of
section 3 of
President's Act
No. 11 of 1976.

4. In the principal Act, in section 3,-

(1) in sub-section (1), for the words "for the benefit of the State", the words "by the Designated Authorities for the benefit of the Panchayats, Municipalities, Municipal Corporations or, as the case may be, the State" shall be substituted;

(2) for sub-section (2), the following sub-section shall be substituted, namely :-

"(2) Every person engaged in any Profession, Trade, Calling or Employment and falling under one or the other of the classes mentioned in column 2 of Schedule I shall be liable to pay the tax to the Designated Authority at such rate fixed by it but not exceeding the amount mentioned against the class of such person in the said Schedule:

Provided that the rates of tax for the class of persons mentioned in entry 1 of the said Schedule shall be fixed by the State Government by notification in the *Official Gazette* :

Provided further that the tax so payable in respect of any one person shall not exceed two thousand and five hundred rupees in any year:

Provided also that the State Government may, by notification in the *Official Gazette*, specify the minimum rate of tax for each of such class mentioned in column 2 of Schedule I, below which tax shall not be levied by the Designated Authority and different limits may be fixed for different Designated Authorities and the minimum rate so notified shall be levied till the Designated Authority fixes some other rate under the provisions of this Act:

Provided also that the State Government may, by notification in the *Official Gazette*, specify the class of persons other than those mentioned in entries 1 to 9 in Schedule I, to whom entry 10 in that Schedule shall apply:

Provided also that the tax shall not be levied from the persons mentioned below Schedule I";

(3) in sub-section (3), for the words "State Government", the words "Designated Authority" shall be substituted;

(4) after sub-section (4), the following sub-section shall be inserted, namely :-

"(5) Where a person falling under any of the entries in Schedule I is liable to pay the tax to more than one Designated Authority, he shall pay the tax to the Designated Authority where the tax liability is highest:

Provided that where a person produces a certificate to the effect that the tax has been paid by him to the Designated Authority where the

liability of tax is highest, the tax shall not be levied by any other Designated Authority.”.

Amendment of
section 5 of
President's Act
No. 11 of 1976.

5. In the principal Act, in section 5, in sub-section (5), for the words “five rupees”, the words “ten rupees” shall be substituted.

Amendment of
section 6 of
President's Act
No. 11 of 1976.

6. In the principal Act, in section 6, in sub-section (3), for the words “five rupees”, the words “ten rupees” shall be substituted.

Amendment of
section 11 of
President's Act
No. 11 of 1976.

7. In the principal Act, in section 11, in sub-section (2),-

(1) in clause (i), for the words “the Additional Commissioners of Profession Tax and the Joint Commissioners of Profession Tax”, the words “and the Additional Commissioner of Profession Tax” shall be substituted;

(2) in clause (iii), the words “the Assistant Commissioners of Profession Tax and” shall be deleted;

(3) clause (iv) shall be deleted.

Amendment of
section 12 of
President's Act
No. 11 of 1976.

8. In the principal Act, in section 12,-

(1) in sub-section (1), -

(i) for clause (a), the following clause shall be substituted, namely:-

“(a) For carrying out the purposes of this Act, the State Government may, for each Designated Authority, appoint an officer to be the Commissioner of Profession Tax.”;

(ii) after clause (a), the following clause shall be inserted, namely:-

“(aa) For carrying out the purposes of this Act, the Designated Authority may appoint such other officers as an Additional Commissioner of Profession Tax and such number of Deputy Commissioners of Profession Tax, Profession Tax Officers and other officers and persons not below such ranks, as the State Government may specify in this regards, with such designation.”;

(iii) in clause (b),-

(a) for the words “paragraph (ii) or (iii) of clause (a)”, the words, “clause (a) or (aa)” shall be substituted;

(b) for the words "State Government may, by notification in the *Official Gazette*", the words "Designated Authority may, by order" shall be substituted;

(2) sub-sections (3),(4),(4A),(5), and (6) shall be deleted.

9. In the principal Act, in section 13, in sub-section (1), in clauses (b) and (c), for the words "the Joint Commissioner", the words "the Additional Commissioner" shall be substituted.

Amendment of
section 13 of
President's Act
No. 11 of 1976.

10. In the principal Act, in section 14,-

Amendment of
section 14 of
President's Act
No. 11 of 1976.

(1) in sub-section (1), in clauses (a) and (b), for the words "the Joint Commissioner", the words "the Additional Commissioner" shall be substituted;

(2) in sub-section (3), for the words "the Joint Commissioner", the words "the Additional Commissioner" shall be substituted.

11. In the principal Act, in section 16, in sub-section (2), for the words "five rupees", the words "ten rupees" shall be substituted.

Amendment of
section 16 of
President's Act
No. 11 of 1976.

12. In the principal Act, in section 18,-

Amendment of
section 18 of
President's Act
No. 11 of 1976.

(1) for the words "Any authority", the words "The Commissioner or any officer authorised by the Commissioner" shall be substituted;

(2) in the proviso, for the words "the said authority", the words "the Commissioner or any officer authorised by the Commissioner" shall be substituted.

13. In the principal Act, in section 26, -

Amendment of
section 26 of
President's Act
No. 11 of 1976.

(1) in sub-section (1), -

(i) for the words "The State Government may, by notification in the *Official Gazette*", the words "The Designated Authority may by passing a resolution in this behalf and by publishing the same in the *Official Gazette*" shall be substituted;

(ii) for clause (a), the following clause shall be substituted, namely :-

"(a) its power of appointments of officers and persons other than an Additional Commissioner under clause (aa) of sub-section (1) of section 12, and";

(iii) for the words "in the notification", the words "in the resolution" shall be substituted;

(2) in sub-section (2), the words "or to the officer authorised by the Collecting Agent under sub-section (4) of section 12" shall be deleted.

Substitution of section 26A of President's Act No. 11 of 1976.

14. In the principal Act, for section 26A, the following section shall be substituted, namely :-

Power to exempt.

"26A. Subject to such conditions as it may impose, the Designated Authority may, after obtaining prior approval of the State Government, if it considers it necessary so to do in public interest, by resolution to be published in the *Official Gazette*, exempt any class of person from payment of whole or any part of the tax payable under the provisions of this Act."

Amendment of section 27 of President's Act No. 11 of 1976.

15. In the principal Act, in section 27,-

- (1) in sub-section (2), clause (f) shall be deleted;
- (2) sub-section (3) and the proviso thereunder shall be deleted;
- (3) in sub-section (4), after the words "All rules made", the words "by the State Government" shall be inserted;
- (4) after sub-section (5), the following sub-section shall be inserted, namely :-

"(6) For carrying out the purposes of this Act, the Designated Authority may make such rules not inconsistent with the provisions of this Act under its relevant law mentioned in clause (aa) of section 2 of this Act."

Substitution of section 28 of President's Act No. 11 of 1976.

16. In the principal Act, for section 28, the following section shall be substituted, namely:-

Amendment of certain enactments.

"28. The enactments specified in column 2 of Schedule II are hereby amended in the manner and to the extent, specified in column 3 thereof."

Substitution of section 29 of President's Act No. 11 of 1976.

17. In the principal Act, for section 29, the following section shall be substituted, namely:-

Grants to Designated Authorities.

"29. Out of the proceeds of the tax and penalties, interest and fees recovered before the commencement of the Gujarat Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2008 (hereinafter referred to as "the said Act") or recoverable after such commencement as a result of previous operation of the Act under clause (a) of section 31, there shall, under the appropriation duly made by law,

be paid annually to such local authorities as were levying a tax on professions, trades, callings and employments before the commencement of the said Act.”.

18. In the principal Act, after section 29, the following new sections shall be added, namely:-

Insertion of new sections 30 and 31 in President's Act No. 11 of 1976.

Power of State Government to give directions.

“30. The State Government shall have the powers to issue directions to the Designated Authorities from time to time as may be required for the compliance of the provisions of this Act and the rules made thereunder and the Designated Authority shall, notwithstanding any provision in the relevant law, be bound to comply with such directions.

Savings.

31. Nothing in the amendments made by the Gujarat State Tax on Professions, Trades, Callings and Employments (Amendment) Act, 2008 (hereinafter referred to as “the said Act”) shall affect or be deemed to have affected, -

Guj. 10 of 2008.

- (a) the previous operation of any provision of the Act or anything done or suffered under the said provisions before the commencement of the said Act;
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the said provisions before the commencement of the said Act;
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the provisions of the Act before the commencement of the said Act; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Act had not been passed.”.

19. In the principal Act, for Schedule I and Schedule II, the following Schedules shall be substituted, namely:-

Substitution of Schedule I and Schedule II to President's Act No. 11 of 1976.

“SCHEDULE I

(See section 3 and section 5(3))

Rates of tax on Professions, Trades, Callings and Employments.

Sr. No.	Class of Persons	Maximum Rate of Tax (in Rs.)
1.	2.	3.
1.	(A) Salary and Wage earners of the State Government, Central Government, Panchayats, Public Sector Undertakings of the State and the Central Government, and Grant-in-aids institutions, whose monthly salaries or wages are - (i) less than Rs.3,000/-	Zero

Ex-10-3

Sr. No.	Class of Persons	Maximum Rate of Tax (in Rs.)
1.	2.	3.
	2003 (Guj. 1 of 2005) whose annual gross turnover of all sales or of all purchases is- (i) not more than Rs.2,50,000/- (ii) more than Rs.2,50,000/- but not more than Rs.5,00,000/- (iii) more than Rs.5,00,000/- but not more than Rs.10,00,000/- (iv) more than Rs. 10,00,000/- <i>Explanation.-</i> For the purpose of this entry, the term, 'year' shall mean the year as defined in clause (36) of section 2 of the Gujarat Value Added Tax Act, 2003 (Guj. 1 of 2005).	Zero 2500/- per annum 2500/- per annum 2500/- per annum
8.	Holders of permits for transport vehicle granted under the Motor Vehicles Act, 1988 (59 of 1988) which are used or adapted to be used for hire or reward, where any such person hold permits for more than two transport vehicles buses, taxis, trucks or three wheelers goods vehicles. <i>Explanation.-</i> Persons residing together as members of one family and holding separate permits shall be one person for the purposes of this entry.	2500/- per annum
9.	Money lender licensed under the Bombay Money-Lenders Act, 1946 (Bom. XXXI of 1947).	2500/- per annum
10.	Persons other than those mentioned in any of the preceding entries, who are engaged in any professions, trades, callings or employments and in respect of whom a notification is issued under the fourth proviso to sub-section (2) of section 3.	2500/- per annum

Exemptions :- The following persons shall be exempted from the payment of tax under any of the entries 2 to 10 of this Schedule :-

- (1) Companies in respect of which orders for winding up are passed under the Companies Act, 1956 (1 of 1956) from the date of such orders.
- (2) Co-operative Societies under liquidation from the date of the commencement of liquidation proceedings.
- (3) A primary co-operative society, the members of which are workers who are carrying on the activity of the society by their own labour.

SCHEDULE II

(See section 28)

Sr. No.	Enactments	Amendments
1.	2.	3.
1.	The Bombay Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949).	In section 127, in sub-section (2), - (1) after clause (a), the following clause shall be inserted, namely :-

		<p>“(b) subject to and in accordance with the provisions of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (President’s Act No.11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments;”;</p> <p>(2) in clause (f), the words “a tax on professions, trades, callings and employments or” shall be deleted.</p>
2.	The Gujarat Municipalities Act, 1963 (Guj. 34 of 1964).	<p>In section 99, in sub-section (1), -</p> <p>(1) after clause (xiv), the following clause shall be inserted, namely :-</p> <p>“(xiv-a) subject to and in accordance with the provisions of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (President’s Act No.11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments;”;</p> <p>(2) in clause (xv), the words “a tax on professions, trades, callings and employments or” shall be deleted.”.</p>
3.	The Gujarat Panchayats Act, 1993 (Guj. 18 of 1993).	<p>1. In section 200, -</p> <p>(1) in sub-section (1), -</p> <p>(a) after clause (ix), the following clause shall be inserted, namely :-</p> <p>“(ix-a) subject to and in accordance with the provisions of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 (President’s Act No.11 of 1976) and the rules made thereunder, a tax on professions, trades, callings and employments;”;</p> <p>(b) in clause (x), the words “or tax on professions, trades, callings and employments” shall be deleted;</p> <p>(2) after sub-section (5), the</p>

President's Act No.
11 of 1976.

President's Act No.
11 of 1976.

	<p>following sub-section shall be inserted, namely :-</p> <p>“(5A) Notwithstanding anything contained in sub-section (1), where a tax on professions, trades, callings and employments has been imposed by any panchayat under the provisions of this Act in the area within the limits of a village panchayat, it shall not be lawful for any other panchayat, so long as the tax is being so imposed, to levy such tax within such limits.”.</p> <p>2. In section 206, in sub-section (2), -</p> <p>(1) clause (b) shall be renumbered as sub-clause (i) of that clause, and in sub-clause (i) as so renumbered, after the words “such tax or fee”, the brackets, words, figures and letters “(other than tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976, read with clause (ix-a) of sub-section (1) of section 200)” shall be inserted;</p> <p>(2) after sub-clause (i), as so renumbered, the following sub-clause shall be inserted, namely :-</p> <p>“(ii) Total amount of gross collection of tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 read with clause (ix-a) of sub-section (1) of section 200, in any financial year in any area within the jurisdiction of a village panchayat shall not form part of the taluka fund, but shall be assigned to the concerned village panchayat.”.</p> <p>3. In section 210, -</p> <p>(1) clause (b) shall be renumbered as sub-clause (i) of that clause, and in sub-clause (i) as so renumbered, after the words “such tax or fee”, the brackets, words, figures and letters “(other than</p>
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President's Act No.
11 of 1976.

President's Act No.
11 of 1976.

		<p>tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 read with clause (ix-a) of sub-section (1) of section 200)" shall be inserted;</p> <p>(2) after sub-clause (i), as so renumbered, the following sub-clause shall be inserted, namely :-</p> <p>"(ii) total amount of gross collection of tax levied under section 3 of the Gujarat State Tax on Professions, Trades, Callings and Employments Act, 1976 read with clause (ix-a) of sub-section (1) of section 200, in any financial year in any area within the jurisdiction of a village panchayat shall not form part of the district fund, but shall be assigned to the concerned village panchayat."</p>
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Ex-10-4



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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
And Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 29th March, 2008 is hereby published for general information.

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.

GUJARAT ACT NO. 11 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 29th March, 2008).

AN ACT

to provide for the constitution of the District Planning Committees at the district level for consolidation of the plans prepared by the Panchayats and the Municipalities in the district and preparation of draft development plan for the district as a whole.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows: —

1. (1) This Act may be called the Gujarat District Planning Committees Act, 2008.

Short title, extent
and
commencement.

(2) It extends to the whole of the State of Gujarat except the areas to which the provisions of the Bombay Provincial Municipal Corporations Act, 1949 apply.

Bom. LIX of
1949.

IV-Ex-11-1

11-1

(3) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires, —

- (a) "Committee" means a District Planning Committee constituted under sub-section (1) of section 3;
- (b) "District Collector" includes an Additional District Collector, or any other officer appointed by the State Government to discharge all or any of the functions of the District Collector under this Act;
- (c) "District Panchayat" means a District Panchayat as defined in clause (7) of section 2 of the Gujarat Panchayats Act, 1993. Guj. 18 of 1993.
- (d) "Municipality" means a municipality as defined in clause (14) of section 2 of the Gujarat Municipalities Act, 1963; Guj. 34 of 1964.
- (e) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (f) "prescribed" means prescribed by rules;
- (g) "rural area" means an area within a Taluka.

Explanation. — "Taluka" means a taluka as defined in clause (25) of section 2 of the Gujarat Panchayats Act, 1993; Guj. 18 of 1993.

- (h) "urban area" means an area within a Municipality;

**Constitution of
District Planning
Committee.**

3. (1) The State Government shall, by notification in the *Official Gazette*, constitute a District Planning Committee in each district consisting of such number of persons not less than thirty and not more than forty as it may determine.

(2) The District Planning Committee shall consist of following members, namely :-

- (i) the Chairperson of the committee to be nominated by the State Government;

- (ii) the President of the District Panchayat, who shall be the Vice-Chairperson;
- (iii) the District Collector, who shall be the Co-Vice-Chairperson;
- (iv) the District Development Officer;
- (v) the District Planning Officer, who shall be the Member-Secretary of the Committee;
- (vi) a person or persons, as determined by the State Government, having special knowledge in the fields of economics, planning, finance, engineering or administration;
- (vii) (a) such number of members as determined by the State Government, to be elected by and from amongst the elected members of the District Panchayat; and
(b) such number of members as determined by the State Government, to be elected by and from amongst the elected members of the Municipalities within the District;

Provided that not less than four-fifths of the total number of the members of the Committee shall be elected by and from amongst the elected members of the District Panchayat and of the Municipalities in the District in proportion to the ratio between the population of the rural areas and of the urban areas in the District.

(3) (i) The members of the House of the People and the members of the Gujarat Legislative Assembly elected from any constituency in the District or a part thereof shall be permanent invitees to the District Planning Committee;

(ii) such officer or officers of the State Government or of any statutory Board, Corporation or Authority having knowledge in the field of economics, planning, engineering, finance or administration, as decided by the State Government, shall be the permanent invitees to the District Planning Committee.

Election.

4. (1) The District Collector shall co-ordinate and supervise all works in connection with the election of members to the Committee in the manner as may be prescribed.
- (2) The District Collector shall appoint a Returning Officer and as many Assistant Returning Officers as may be necessary for conducting the election of members to the Committee.
- (3) The powers and functions of the Returning Officer and the Assistant Returning Officers shall be such as may be prescribed.
- (4) Where any dispute arises regarding any election held under this Act, any person entitled to vote at such election may, within thirty days after the date of the declaration of the results of such election, file a petition, calling in question such election, before the Election Commissioner of the State having jurisdiction, and the decision of the Election Commissioner shall be final and shall not be called in question in any court..
- (5) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no civil court of law shall have jurisdiction to entertain any petition calling in question the validity of any election held under this Act.

Term of office and other conditions of members of Committee.

5. (1) The term of office of the members of the Committee other than *ex-officio*, shall be five years.
- (2) A member of a Committee, who is a member of a District Panchayat, a Municipality, the House of the People, the Legislative Assembly of the State shall cease to be a member of the Committee if he ceases to be a member of the respective District Panchayat, Municipality, the House of the People or the Legislative Assembly of the State.
- (3) The other terms and conditions of the members of the Committee shall be such as may be prescribed.

6. (i) The Chairperson may at any time, resign his office by writing to the State Government and on such resignation being accepted the Chairperson shall be deemed to have vacated his office;

Resignation.

(ii) The Vice-Chairperson or a member of the Committee may, at any time, resign his office by writing to the Chairperson and, on such resignation being accepted, the Vice-Chairperson or, as the case may be, the member shall be deemed to have vacated his office.

7. Any vacancy occurring by reason of death, resignation or otherwise of an elected member of a Committee shall be filled by election of another member in the manner as may be prescribed.

Filling of casual vacancy in place of an elected member of Committee.

8. The State Government shall provide to the Committee such sum as it may think fit for the purpose of carrying out the functions by the Committee under this Act.

Grant to Committee.

9. (1) The Committee shall meet on such date, at such time and place as the Chairperson may think fit and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by rules:

Procedure, records to be regulated by Committee.

Provided that the Chairperson, when required by a notice in writing by at least one-third of the members of the Committee shall call a meeting within one month from the date of receipt of the notice.

(2) Minimum of ten members, shall form a quorum for a meeting of the Committee:

Provided that no quorum shall be necessary for an adjourned meeting.

(3) The Secretary of the Committee shall maintain records and the proceedings of the meetings of the Committee and shall take such actions as the Committee may decide.

**Powers and
functions of
Committee.**

10. (1) The Committee shall—
- (a) consolidate the plans prepared by the Panchayats and the Municipalities in the district, and
 - (b) prepare a draft development plan for the district as a whole.
- (2) The Committee shall, in preparing the draft development plan under clause (b) of sub-section (1), —
- (a) have regard to —
 - (i) matters of common interest between the Panchayats and the Municipalities including spatial planning, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;
 - (ii) the extent and type of available resources, whether financial or otherwise;
 - (b) consult such institutions and organisations as the State Government may, by order, specify.
- (3) The State Government may, by order, assign to the Committee such other functions relating to district planning.
- (4) The State Government may constitute Sub-Committees as may be deemed necessary for carrying out the purposes of this Act in the manner as may be prescribed.
- (5) The Chairperson of a Committee shall forward the draft development plan, as recommended by such Committee, to the State Government in the manner as may be prescribed.

11. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.
- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters, which under any provision of this Act, are required to be prescribed or to be provided for by rules.
- (3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.
- (4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Power of State Government to make rules.

12. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as appears it to be necessary or expedient for removing the difficulty :

Power to remove difficulties.

Provided that no order under sub-section (1) shall be made after the expiry of two years from the date of commencement of this Act.

- (2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.



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H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs
Department.

GUJARAT ACT NO. 12 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 29th March, 2008).

AN ACT

to confer power on the Sardar Sarovar Narmada Nigam Limited to redeem, in the public interest, the Deep Discount Bonds issued by it.

It is hereby enacted in the Fifty-ninth Year of the Republic of India, as follows :-

1. This Act may be called the Sardar Sarovar Narmada Nigam Limited (Conferment of Power to Redeem Bonds) Act, 2008.

Short title.

Amendment of
financial covenants
and conditions of
Bonds.

2. (1) Notwithstanding anything contained in the terms of prospectus dated the 29th September, 1993 issued by the Sardar Sarovar Narmada Nigam Limited being a Government Company within the meaning of section 617 of the Companies Act, 1956 (hereinafter referred to as "the Company") in respect of the Bonds, or in the Trust Deed dated the 31st December, 1994 between the Company and the trustees, or in any other document relating to Deep Discount Bonds or in condition No.7 appearing under the heading "financial covenants and conditions" specified on the reverse side of the Bonds (hereinafter referred to as "the said financial covenants and conditions"), the Legislative Assembly of Gujarat hereby amends, in the public interest, the said financial covenants and conditions as follows, namely :-

1 of 1956.

In the said financial covenants and conditions, after condition No. 3 relating to redemption, the following condition shall be inserted and shall be deemed always to have been inserted with effect on and from the date of the allotment of the Bonds, namely :-

"3A. (a) Notwithstanding anything contained in condition No. 3 relating to redemption and in the terms of withdrawal of Bonds appearing under condition No. 9, each Bond having the face value of Rs. 1,11,000 issued at Rs. 3,600 shall be redeemed earlier on such date and with such deemed face value as the Company may determine by payment of the amount so determined :

Provided that the deemed face value shall be so determined as not to be less than such amount as may be arrived at by raising the deemed face value of Rs. 25,000 as on 11th January, 2005 at the rate of 18.92 per cent, for the period beginning from the said date of 11th January, 2005 till the date of redemption so determined.

(b) The Company shall publish the date and the deemed face value determined under clause (a) in the newspapers in English and Gujarati languages in the area having wide circulation."

(2) The new condition 3A inserted in the said financial covenants and conditions by sub-section (1) shall be deemed to have been incorporated in and to have formed part of each of such Bonds with effect on and from the date of its allotment i.e. the 11th January, 1994 (irrespective of whether the Bond is in possession of a Bond holder or not).

Bar of
jurisdiction of
civil courts.

3. No civil court shall have jurisdiction to entertain any question arising out of any provision of this Act and of the Deep Discount Bonds (as amended by this Act) issued by the Company and no injunction shall be granted by any civil court in respect of any action taken or to be taken in pursuance of any financial covenant or condition of the Bonds.



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H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 13 OF 2008.

(First published, after having received the assent of the Governor in the "Gujarat Government Gazette", on the 29th March, 2008).

AN ACT

to authorise payment and appropriation of certain sums from and out of the Consolidated Fund of the State of Gujarat for the services of the financial year ending on the thirty-first day of March, 2009.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. This Act may be called the Gujarat Appropriation Act, 2008.
2. From and out of the Consolidated Fund of the State of Gujarat, there may be withdrawn sums not exceeding those specified in column 3 of the Schedule hereto annexed amounting in the aggregate to the sum of fifty thousand two hundred fifteen crore, seventy-two lakhs, ninety-five thousand rupees towards defraying the several charges which will come in course of payment during the financial year 2008-09 in respect of the services and purposes specified in column 2 of the Schedule.
3. The sums authorised to be paid and applied from and out of the Consolidated Fund of the State of Gujarat by this Act shall be appropriated for the services and purposes expressed in the Schedule in relation to the said year.

Short title.

Withdrawal of Rs.
5,02,15,72,95,000
from and out of the
Consolidated Fund
of the State of
Gujarat for the
financial year
2008-2009.

Appropriation.

SCHEDULE

(see sections 2 and 3)

No. of Vote / Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3.		
1	Agriculture and Co-operation Department	Revenue	130294000		130294000
2	Agriculture	Revenue	6764756000		6764756000
		Capital	5000000		5000000
3	Minor Irrigation, Soil Conservation and Area Development	Revenue	2005515000		2005515000
		Capital	10000		10000
4	Animal Husbandry and Dairy Development	Revenue	1384384000		1384384000
5	Co-operation	Revenue	542510000		542510000
		Capital	23200000		23200000
6	Fisheries	Revenue	1350700000		1350700000
		Capital	50000000		50000000
7	Other Expenditure pertaining to Agriculture and Cooperation Department	Capital	11000000		11000000
8	Education Department	Revenue	39692000		39692000
9	Education	Revenue	54637013000	1545100000	56182113000
		Capital	1171500000		1171500000
10	Other Expenditure pertaining to Education Department	Revenue	11500000		11500000
		Capital	265515000		265515000
11	Energy and Petro-Chemicals Department	Revenue	43470000		43470000
12	Tax Collection Charges (Energy and Petrochemicals Department)	Revenue	73930000		73930000
13	Energy Projects	Revenue	22327601000		22327601000
		Capital	3874971000		3874971000
14	Other Expenditure pertaining to Energy and Petro-Chemicals Department	Revenue	9550000		9550000
		Capital	800000		800000
15	Finance Department	Revenue	83666000		83666000
16	Tax Collection Charges (Finance Department)	Revenue	955047000		955047000
17	Treasury and Accounts Administration	Revenue	794100000		794100000
18	Pensions and Other Retirement Benefits	Revenue	26636410000	1200000	26637610000
19	Other Expenditure pertaining to Finance Department	Revenue	22202258000		22202258000
		Capital	115510000	100000	115610000
20	Repayment of debt pertaining to Finance Department and its Servicing	Revenue		77701234000	77701234000
		Capital		31593535000	31593535000
21	Food, Civil Supplies and Consumer Affairs Department	Revenue	87356000		87356000
22	Civil Supplies	Revenue	1762206000		1762206000
23	Food	Revenue	199479000		199479000
		Capital	12500000		12500000
24	Other Expenditure pertaining to Food, Civil Supplies and Consumer Affairs Department	Capital	1100000		1100000
25	Forest and Environment Department	Revenue	32190000		32190000
26	Forest	Revenue	1631966000	1100000	1633066000
		Capital	1183735000		1183735000
27	Environment	Revenue	51000000		51000000

No. of Vote / Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
28	Other expenditure pertaining to Forest and Environment Department	Capital	5840000		5840000
29	Governor	Revenue		27912000	27912000
30	Council of Ministers	Revenue	23151000		23151000
31	Election	Revenue	216029000		216029000
32	Public Service Commission	Revenue	14335000	32480000	46815000
33	General Administration Department	Revenue	397920000		397920000
34	Economic Advice and Statistics	Revenue	98505000		98505000
35	Other Expenditure pertaining to General Administration Department	Revenue	1975093000	3094000	1978187000
		Capital	8040000		8040000
36	State Legislature	Revenue	109430000	1660000	111090000
37	Loans and Advances to Government Servants in Gujarat Legislature Secretariat	Capital	3407000		3407000
38	Health and Family Welfare Department	Revenue	91465000		91465000
39	Medical and Public Health	Revenue	10047294000		10047294000
		Capital	1388858000		1388858000
40	Family Welfare	Revenue	1873338000		1873338000
41	Other Expenditure pertaining to Health and Family Welfare Department	Revenue	1895000		1895000
		Capital	17000000		17000000
42	Home Department	Revenue	240595000		240595000
43	Police	Revenue	11018803000		11018803000
44	Jails	Revenue	325976000		325976000
45	State Excise	Revenue	61850000		61850000
46	Other Expenditure pertaining to Home Department	Revenue	370265000	300000	370565000
		Capital	745002000		745002000
47	Industries and Mines Department	Revenue	84569000		84569000
48	Stationery and Printing	Revenue	461335000		461335000
49	Industries	Revenue	5788679000		5788679000
		Capital	603050000		603050000
50	Mines and Minerals	Revenue	464290000		464290000
51	Tourism	Revenue	876215000		876215000
		Capital	1100000		1100000
52	Other Expenditure pertaining to Industries and Mines Department	Revenue	253850000		253850000
		Capital	9610000		9610000
53	Information and Broadcasting Department	Revenue	7370000		7370000
54	Information and Publicity	Revenue	457040000		457040000
55	Other Expenditure pertaining to Information and Broadcasting Department	Revenue	35875000		35875000
		Capital	5500000		5500000
56	Labour and Employment Department	Revenue	49885000		49885000
57	Labour and Employment	Revenue	2025606000		2025606000
58	Other Expenditure pertaining to Labour and Employment Department	Capital	5555000		5555000
59	Legal Department	Revenue	40470000		40470000
60	Administration of Justice	Revenue	1665960000	305315000	1971275000
61	Other Expenditure pertaining to Legal Department	Revenue	203774000		203774000
		Capital	16651000		16651000

No. of Vote / Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
62	Legislative and Parliamentary Affairs Department	Revenue	24325000		24325000
63	Other Expenditure pertaining to Legislative and Parliamentary Affairs Department	Capital	150000		150000
64	Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	71100000		71100000
65	Narmada Development Scheme	Capital	21363800000		21363800000
66	Irrigation and Soil Conservation	Revenue	5649581000		5649581000
		Capital	11533049000		11533049000
67	Water Supply	Revenue	4011000000		4011000000
		Capital	8586000000		8586000000
68	Other Expenditure pertaining to Narmada, Water Resources, Water Supply and Kalpsar Department	Revenue	4420000		4420000
		Capital	16020000		16020000
69	Panchayats, Rural Housing and Rural Development Department	Revenue	33276000		33276000
70	Community Development	Revenue	5685790000		5685790000
71	Rural Housing and Rural Development	Revenue	4226312000	1654600000	5880912000
72	Compensation and Assignments	Revenue	639927000		639927000
73	Other Expenditure pertaining to Panchayats, Rural Housing and Rural Development Department	Revenue	1309415000		1309415000
		Capital	136320000		136320000
74	Transport	Revenue	2433490000		2433490000
		Capital	1325000000		1325000000
75	Other Expenditure pertaining to Ports and Transport Department	Revenue	10990000		10990000
		Capital	360000		360000
76	Revenue Department	Revenue	165301000		165301000
77	Tax Collection Charges (Revenue Department)	Revenue	946073000		946073000
78	District Administration	Revenue	1042484000		1042484000
79	Relief on account of Natural Calamities	Revenue	6118988000		6118988000
		Capital	2625900000		2625900000
80	Dangs District	Revenue	221960000		221960000
81	Compensation and Assignments	Revenue	354745000	1300000	356045000
		Capital	1800000	200000	2000000
82	Other Expenditure pertaining to Revenue Department	Revenue	9475000		9475000
		Capital	5165000		5165000
83	Roads and Buildings Department	Revenue	90670000		90670000
84	Non-Residential Buildings	Revenue	2843538000	1450000	2844988000
		Capital	4367787000		4367787000
85	Residential Buildings	Revenue	951572000		951572000
		Capital	191083000		191083000
86	Roads and Bridges	Revenue	12276088000		12276088000
		Capital	8288860000		8288860000
87	Gujarat Capital Construction Scheme	Revenue	85160000		85160000
		Capital	887000000		887000000
88	Other Expenditure pertaining to Roads and Buildings Department	Revenue	122021000		122021000
		Capital	60500000		60500000
89	Science and Technology Department	Revenue	201925000		201925000
90	Other Expenditure pertaining to	Revenue	177100000		177100000

No. of Vote / Appropriation	Services and purposes		Sums not exceeding		
			Voted	Charged on the Consolidated Fund	Total
			Rs.	Rs.	Rs.
1	2		3		
	Science and Technology Department	Capital	97100000		97100000
91	Social Justice and Empowerment Department	Revenue	29939000		29939000
92	Social Security and Welfare	Revenue	3979580000	10500000	3990080000
		Capital	152840000		152840000
93	Welfare of Scheduled Tribes	Revenue	865409000		865409000
		Capital	102795000		102795000
94	Other Expenditure pertaining to Social Justice and Empowerment Department	Capital	7255000		7255000
95	Scheduled Castes Sub Plan	Revenue	9421251000		9421251000
		Capital	1110055000		1110055000
96	Tribal Area Sub-Plan	Revenue	19341126000		19341126000
		Capital	11874351000		11874351000
97	Sports, Youth and Cultural Activities Department	Revenue	33763000		33763000
98	Youth Services and Cultural Activities	Revenue	622057000		622057000
99	Other Expenditure pertaining to Sports, Youth and Cultural Activities Department	Capital	1515000		1515000
100	Urban Development and Urban Housing Department	Revenue	18700000		18700000
101	Urban Housing	Revenue	640000	675525000	676165000
102	Urban Development	Revenue	33975503000		33975503000
		Capital	300000000		300000000
103	Compensation, Assignment and Tax Collection Charges	Revenue	1129000000	300103000	1429103000
104	Other Expenditure pertaining to Urban Development and Urban Housing Department	Revenue	7850000		7850000
		Capital	3010000		3010000
105	Women and Child Development Department	Revenue	9915000		9915000
106	Other Expenditure pertaining to Women and Child Development Department	Revenue	3053999000	5000000	3058999000
		Capital	500505000		500505000
	TOTAL	Revenue	305232913000	82267873000	387500786000
		Capital	83062674000	31593835000	114656509000
	TOTAL		388295587000	113861708000	502157295000



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLIX] THURSDAY, JUNE 5, 2008/JYAISTHA 15, 1930

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART IV

Acts of Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the President on the 16th May, 2008, is hereby published for general information.

H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 14 OF 2008.

(First published, after having received the assent of the President in the "Gujarat Government Gazette" on the 5th June, 2008).

AN ACT

*further to amend the Registration Act, 1908 in its application
to the State of Gujarat.*

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

- | | | |
|-----------------|--|---|
| 1. | (1) This Act may be called the Registration (Gujarat Amendment) Act, 2008. | Short title and
commencement. |
| (2) | It shall come into force on such date as the State Government may, by notification in the <i>Official Gazette</i> , appoint. | |
| XVI of 1908. 2. | In the Registration Act, 1908 in its application to the State of Gujarat, in section 17, in sub-section (1), after clause (e) and before the proviso, the following clauses shall be inserted, namely :- | Amendment of
section 17 of XVI of
1908. |
| | “(f) power of attorney relating to transfer of immovable property possession whereof has been or is handed over to the purported attorney holder; | |
| | (g) instrument relating to the mortgage by deposit of title deeds.” | |



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PART IV

Acts of the Gujarat Legislature and Ordinances promulgated
And Regulations made by the Governor.

AGRICULTURE AND CO-OPERATION DEPARTMENT
Sachivalaya, Gandhinagar, Dated the 10th June, 2008.

GUJARAT ORDINANCE NO. 1 OF 2008.

AN ORDINANCE

to regulate the supply, distribution, sale and fixation of sale price of cotton seeds and for the matters connected therewith and incidental thereto.

WHEREAS cotton seeds of certain varieties are not notified under
54 of 1966. section 5 of the Seeds Act, 1966 and consequently no sale of such seeds are regulated under section 7 of the said Act;

AND WHEREAS cotton seed is not an essential commodity within
10 of 1955. the meaning of the Essential Commodities Act, 1955 as amended by the
54 of 2006. Essential Commodities (Amendment) Act, 2006;

AND WHEREAS the provisions of the Seeds (Control) Order, 1983, issued under section 3 of the Essential Commodities Act, 1955 are not applicable in so far as they relate to the cotton seeds with effect from 12th February, 2007; 10 of 1955.

AND WHEREAS there is no provisions in the Environment (Protection) Act, 1986 to regulate the supply, distribution and sale of transgenic and genetically modified cotton seeds and to control the sale price of such cotton seeds in the State; 29 of 1986.

AND WHEREAS the traders in cotton seeds including transgenic cotton seeds are exploiting poor farmers by collecting exorbitant price;

AND WHEREAS there is no provision to regulate the supply, distribution, sale of cotton seeds and to control the sale price of such cotton seeds in the State;

AND WHEREAS it has become imperative on the part of the State Government to regulate the supply, distribution and sale of cotton seeds by fixing the sale price in the interests of the farmers in the State;

AND WHEREAS the Legislative Assembly of the State of Gujarat is not in session;

AND WHEREAS the Governor of Gujarat is satisfied that circumstances exist which render it necessary for him to take immediate action to regulate the supply, distribution and sale of cotton seeds by fixing the sale price in the interests of the farmers of the State;

NOW, THEREFORE, in exercise of the powers conferred on him by clause (1) of article 213 of the Constitution of India, the Governor of Gujarat is hereby pleased to make and promulgate the following Ordinance, namely :-

1. **Short title and commencement.-** (1) This Ordinance may be called the Gujarat Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Ordinance, 2008.

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

2. **Definitions.-** In this Ordinance, unless the context otherwise requires,-

(1) "Agronomic Performances" means distinguishable agronomic qualitative and quantitative characteristics of any cotton seed variety considered for evaluation of performance as claimed by the producer on label;

(2) "Controller" means the Cotton Seed Controller appointed under section 3;

(3) "Cotton Seed" means cotton seeds of any variety and includes transgenic and genetically modified cotton seeds varieties used for sowing;

(4) "Farmer" means any person who raises cotton crops either by cultivating the land by himself or through any other person but shall not include persons, companies, traders, dealers who are engaged in the commercial procurement and sale of seeds;

(5) "Misbranded" the seed shall be deemed to be misbranded, if -

(i) it is a substitute for, or resembles in a manner likely to deceive, another variety of seed under the name of which it is sold, and is not plainly and conspicuously labeled so as to indicate its true nature; or

(ii) it is falsely stated to be the produce of any place or country; or

(iii) it is sold by a name which belongs to another kind or variety of seed; or

(iv) false claims are made for it upon the label or otherwise; or

- (v) sold in a package which has been sealed or prepared by, or at the instance, of the dealer and which bears his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this Ordinance; or
 - (vi) the package containing it or the label on the package bears any statement, design or device regarding the quality of cotton seed contained therein, which is false or misleading in any material particular or if the package is otherwise deceptive with respect of its contents; or
 - (vii) it is not registered in the manner required by or under the provisions of this Ordinance; or
 - (viii) its label does not contain a warning or caution, which may be necessary and sufficient, if complied with to prevent risk to human beings or animals; or
 - (ix) the package containing it or the label on the package bears the name of a fictitious individual or company as the dealer of the kind or variety; or
 - (x) it is not labeled in accordance with the requirement of the provisions of this Ordinance or the rules made thereunder;
- (6) "prescribed" means prescribed by rules made under this Ordinance;
 - (7) "producer" means a person, group of persons, firm or company or organisation who grows or organises the production of cotton seed;
 - (8) "Spurious Seed" means the cotton seed which is not genuine or true to its type;
 - (9) "State Seed Testing Laboratory" means a laboratory established or declared as such by the State Government by a notification published in the *Official Gazette*;
 - (10) "sub-standard seeds" means cotton seeds which does not meet with the prescribed standards for the cotton seeds;

(11) "Transgenic Variety" means seed or planting material synthesised or developed by modifying or altering the genetic composition by means of genetic engineering;

(12) "Variety" means a plant grouping except micro-organism within a single botanical taxon of the lowest known rank, which can be -

- (i) defined by the expression of the characteristics resulting from a given genotype of that plant grouping;
- (ii) distinguished from any other plant grouping by expression of at least one of the said characteristics;
- (iii) considered as a unit with regard to its suitability for being propagated which remains unchanged after such propagation;

and includes propagating material of such variety, extant variety, transgenic variety, farmers' variety and essentially derived variety;

(13) The words and expressions used in this Ordinance but not defined shall have the same meaning assigned to them in the Seeds Act, 1966, the Essential Commodities Act, 1955, Seeds (Control) Order, 1983 issued there under and the Environment (Protection) Act, 1986.

54 of 1966.

10 of 1955.

29 of 1986.

3. **Appointment of Controller.**- The State Government may, by notification published in the *Official Gazette*, appoint an officer to be the Cotton Seeds Controller for the State.

4. **Powers of Controller.**- (1) Subject to the control of the State Government, the Controller, if it appears to him to be necessary or expedient for regulating, maintaining or increasing the supply or distribution or sale of cotton seeds, may, by order in writing, -

(a) require any person holding stock of cotton seeds to sell the whole or specified part thereof at such prices as may be fixed by the State Government from time to time and to such persons in such circumstances as may be specified in the said order;

(b) require any person engaged in the supply, distribution and sale of cotton seeds to comply with such directions as may be

specified in the order as to the variety, quality or quantity of the cotton seeds to be sold or delivered by him from time to time.

(2) Any person to whom an order is issued under sub-section (1) shall comply with such order, notwithstanding anything inconsistent therewith contained in any contract or other instrument to which he is a party.

5. **License for vendor.-** (1) Every person desirous to carry on the business of sale in cotton seeds shall apply to the Controller for grant of licence in such form as may be prescribed.

(2) Such application shall be accompanied by such fees and such other documents, as may be prescribed.

(3) The Controller shall, after making such enquiry as he deems fit, either grant the application or reject it.

(4) If the Controller grants the application, he shall issue a licence to carry on the business of sale in cotton seeds, subject to such terms and conditions and in such form as may be prescribed.

6. **Functions of Controller.-** The Controller appointed under this Ordinance shall perform the following functions, namely :-

- (a) arrange for mandatory registration of cotton seeds firms which are engaged in the trade of cotton seeds duly indicating the production aspects and areas of operation etc;
- (b) arrange for payment of compensation to the farmers;
- (c) advice the State Government on matters relating to regulation of sale of cotton seeds by way of compulsory DNA finger printing test or genetic purity test; and
- (d) such other matters as assigned to him by the State Government.

7. **State Seed Testing Laboratory.-** The State Government may in consultation with the Controller and by notification in the *Official Gazette*,-

(a) establish one or more State Seeds Testing Laboratories or declare any seeds testing laboratory in the Government or non-Government sector as the State Seeds Testing Laboratory where analysis of cotton seeds shall be carried out in the prescribed manner;

(b) recognize one or more seeds testing laboratories as referral seeds testing laboratories for the purpose of referral analysis in the prescribed manner.

8. Compensation to farmers.- (1) The producer or distributor or vendor of cotton seeds or, as the case may be, whose address appears on the label shall disclose the expected performance of such seed, under given conditions to the Controller and if such seed fails to provide the expected performance under such given conditions, the State Government or farmer may claim compensation in such manner as may be prescribed. In respect of transgenic seed all the conditions that are imposed by Genetic Engineering Approval Committee has to be complied.

(2) In case the claim of expected performance is found fictitious, the producer whose address appears on the label, shall be responsible for payment of all such claims related to agronomic performance as specified in sub-section (1).

(3) The compensation payable under sub-sections (1) and (2) shall be assessed and fixed by the committee appointed for each agro-climatic zone separately, consisting of crop experts and representatives of the State Government, as may be notified by the State Government.

9. Seed Inspector.- (1) The State Government may, by notification published in the *Official Gazette*, appoint such person as it thinks fit to be Seed Inspector and specify the areas within which he shall exercise his jurisdiction.

(2) The Seed Inspector, if he has information that any person dealing in the trade of cotton seeds has contravened any of the conditions issued by the Controller, or suspecting the quality of the cotton seeds or any person is

about to commit an offence in respect of cotton seeds, he may enter in any premises for the purpose of search, and draw samples and detain or seize the stock of cotton seeds and records and after receiving the reports of seed analysts, shall take all further actions in accordance with the provisions of this Ordinance.

10. Seed Analyst.- The State Government may, by notification published in the *Official Gazette*, appoint such person as it thinks fit, to be the Seed Analyst and specify the areas within which he shall exercise his jurisdiction.

11. Report of Seed Analyst.- (1) The Seed Analyst shall, as soon as may be after the receipt of the sample from the Seed Inspector, analyse the sample at the State Seeds Laboratory and furnish a report on the result of the analysis to the Seed Inspector, within thirty days of receipt of the sample to the laboratory.

(2) The Seed Inspector shall on the basis of the report of the Seed Analyst under sub-section (1) institute proceedings for the prosecution on the producer or, as the case may be, vendor of the said seed.

(3) After institution of prosecution under this Ordinance, the accused producer or vendor or, as the case may be, the complainant may on payment of the prescribed fee, make an application to the Court for sending any of the sample retained with Seed Inspector or producer or vendor as per discretion of Magistrate to any of the laboratory referred to in section 7 of this Ordinance, for its report. The Court shall first ascertain the mark or seal or the fastening as may be prescribed or the intact. On receipt of the application, the Court may dispatch the sample under its own seal to any of the referral laboratory specified for the purpose, which shall thereupon send its report to the Court in the prescribed form specifying the result of the analysis within a period of thirty days from the date of receipt of the sample.

(4) The report sent by the referral laboratory under sub-section (3) shall supersede the report given by the Seed Analyst under sub-section (1).

(5) When the report sent by the referral laboratory under sub-section (2) is produced in any proceedings, it shall not be necessary to produce any such sample or part thereof taken for analysis in any proceedings.

12. Power to fix the prices.- (1) The State Government may, after taking into consideration of the cost of production, etc. including trait value and other related factors wherever necessary, obtained from various agencies concerned, fix maximum sale price from time to time of all types of cotton seeds.

(2) Every such price shall be published in the *Official Gazette* and shall be effective from such date as may be specified therein.

13. Penalties.- (1) If any person contravenes any of the provisions of this Ordinance or the rules or the order issued to him by the Controller under this Ordinance, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend up to rupees five thousand or with both.

(2) If any person commits any act of misbranding sale of spurious and substandard cotton seeds shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to rupees five thousand or with both.

14. Offences by companies.- (1) Where an offence under this Ordinance or the rules thereunder has been committed by a company, every person who, at the time the offence was committed, was in-charge of, and was responsible to the company, for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Ordinance if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - For the purpose of this section, -

- (a) "company" means a body corporate, and includes a firm or other association of persons; and
- (b) "director" in relation to a firm means a partner in the firm.

15. Cognizance of offences. - No court shall take cognizance of any offence punishable under this Ordinance except on a report in writing of the facts constituting such offence made by the Controller or any other authority authorized by him.

16. Appeal. - (1) Any person aggrieved by a decision of the Controller under section 4 or 5 may, within thirty days from the date on which the decision is communicated to him and on payment of such fees as may be prescribed, prefer an appeal to the State Government:

Provided that the appellate authority may admit an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1) the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(3) Every order of the appellate authority under this section shall be final.

17. ***Forfeiture of cotton seed.***- When any person has been convicted for the contravention of any of the provisions of this Ordinance or the rules made thereunder, the cotton seed in respect of which the contravention has been committed may be forfeited to the State Government.

18. ***Exemption.***- Nothing in this Ordinance shall apply to any cotton seed grown by a farmer and sold or delivered by him on his own premises directly to another farmer for being used by that farmer for the purpose of sowing.

19. ***Officers to be public servant.***- The Controller and all other officers appointed under this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860.

45 of 1860.

20. ***Protection of action taken in good faith under the Ordinance.***- No suit, prosecution or other legal proceedings shall lie against the State Government or the Controller, the Seed Inspector, the Seed Analyst or an officer or employee of the State Government for anything which is done or intended to be done in pursuance of any of the provisions of this Ordinance or rules made thereunder.

21. ***Power of State Government to give directions.***- The State Government may give such directions to the Controller, the Seed Inspector or the Seed Analyst as may appear to it to be necessary for carrying out the provisions of this Ordinance or of any rule made thereunder.

22. ***Power to make rules.***- (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters, which under any provision of this Ordinance, are required to be prescribed or to be provided for by rules.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

23. Power to remove difficulty. - (1) If any difficulty arises in giving effect to the provisions of this Ordinance, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Ordinance, as appears it to be necessary or expedient for removing the difficulty :

Provided that no order under sub-section (1) shall be made after the expiry of two years from the date of commencement of this Ordinance.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

STATEMENT

The provisions of the Seeds Act, 1966 (54 of 1966) in its application to the State of Gujarat regulates the quality of seeds in respect of notified varieties but cotton seed is not notified under the said Act. For the past few years, in view of the substantial change of pattern of agriculture particularly in usage of seeds, the provisions of the said Act are found to be inadequate for enforcement in respect of quality of cotton seeds and regulation of trade of non - notified cotton varieties research hybrid varieties, etc., as a result, the entire economy of farmer is adversely affected.

By the recent amendment of Essential Commodities Act, 1955 Cotton Seed is deleted from the Schedule of the Act. The traders who are dealing in cotton seeds including transgenic cotton seeds have been resorting to dubious methods and exploitation of poor farmers particularly in respect of scarce type of cotton seed, causing unjustified burden towards seed cost which is essential and vital input in the process of agriculture, which lead the several farmers into debt trap. The multinational companies are taking undue advantage of their monopoly in respect of scarce type of cotton seed.

Article 39 (b) of the Constitution of India empowers the State Government to make suitable statutory provisions, so as to make available the commodities essential to the citizens at fair price. Therefore, in the interest of farming fraternity and to have free flow of supply, equal distribution and price of all kinds of cotton seeds including transgenic cotton seeds and to protect farmers economy, it is expedient and necessary to promulgate an Ordinance in this regard.

This Ordinance provides for appointment of Controller at the State level and to notify the Seed Testing Laboratories.

It also provides for curtailing the supply of spurious or inferior quality of seed and to evolve an effective regulatory system which will enable effective quality assurance, supply, distribution and at fair price.

There are also provisions to provide adequate mechanism to pay compensation to the farmers in the event of supply of inferior quality of cotton seed to bring regulatory mechanism for regulation of trade of transgenic genetically modified varieties by way of compulsory DNA finger printing tests or genetic purity test. Provision is also made for mandatory registration of firms which are engaged in the trade of cotton seeds in the State.

Other provisions are for punishments in the event of violation of the provisions of the Ordinance.

As the Legislative Assembly of the State of Gujarat is not in session, this Ordinance is promulgated to achieve the aforesaid objects.

NAWAL KISHORE SHARMA,
Governor of Gujarat.

Gandhinagar,
Dated the 10th June, 2008.

By order and in the name of the Governor of Gujarat,

P.N. ROY CHAUDHARY,
Principal Secretary to Government.

Extra No. 16

REGISTERED No. G/GNR/2



सत्यमेव जयते

The Gujarat Government Gazette

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XLIX] TUESDAY, SEPTEMBER 30, 2008/ASVINA 8, 1930

Separate paging is given to this Part in order that it may be filed as a Separate Compilation.

PART IV

**Acts of Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.**

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 29th September, 2008, is hereby published for general information.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 15 OF 2008.

(First published, after having received the assent of the Governor, in the "Gujarat Government Gazette," on the 30th September, 2008).

AN ACT

further to amend the Gujarat Maritime Board Act, 1981.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Maritime Board (Amendment) Act, 2008.
- (2) It shall be deemed to have come into force on the 1st April, 2008.

**Short title and
commencement.**

Amendment of
section 2 of Guj.
30 of 1981.

2. In the Gujarat Maritime Board Act, 1981 (hereinafter referred to as "the principal Act"), in section 2, after clause (y), the following clause shall be inserted, namely:-

Guj. 30
of 1981.

"(y-a) "State charges" means the charges levied under section 22A;"

Amendment of
section 20 of
Guj. 30 of 1981.

3. In the principal Act, in section 20, after sub-section (2), the following sub-section shall be inserted, namely:-

"(3) Notwithstanding anything contained in sub-section (1), the State charges shall be levied by the State Government under section 22A."

Substitution
of section 22A of
Guj. 30 of 1981.

4. In the principal Act, for the existing section 22A, the following section shall be substituted, namely:-

Levy of State
charges.

"22A. (1) The State Government shall levy,

(i) charges for landing and shipping, licence fees, waterfront fees and lighterage charges at minor ports which are under administration, control and management of the Board; and

(ii) waterfront royalty as applicable at minor ports in the State of Gujarat,

at such rates as the State Government may, by notification in the *Official Gazette*, specify.

(2) The State charges referred to in sub-section (1) shall be collected, in the manner as may be prescribed, by the Board or by an officer as may be authorised by the Board or the State Government and all such moneys shall be credited to the Consolidated Fund of the State.

(3) The State Government shall pay to the Board under the appropriation duly made by law in this behalf the administration charges computed at the rate of fifteen percent. of the State charges levied by the State Government."

Amendment of
section 37 of
Guj. 30 of
1981.

5. In the principal Act, in section 37, in sub-section (1), after the words "specified hereunder", the brackets and words "(except the State charges)" shall be inserted.

Extra No. 17

REGISTERED No. G/GNR/2



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H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 16 OF 2008.

(First published, after having received the assent of the Governor, in the "Gujarat Government Gazette" on the 30th September, 2008).

AN ACT

further to amend the Gujarat Homoeopathic Act, 1963.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

1. (1) This Act may be called the Gujarat Homoeopathic (Amendment) Act, 2008. **Short title and commencement.**

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Amendment
of section 3 of
Guj. XXXVI
of 1963.

2. In the Gujarat Homoeopathic Act, 1963 (hereinafter referred to as "the principal Act"), in section 3, in sub-section (2), - Guj. XXXVI
of 1963.

(1) for clauses (a) and (b), the following clauses shall be substituted, namely :-

"(a) five members shall be nominated by the State Government who are the registered practitioners;

(b) six members shall be elected from the common electoral roll prepared for the purpose, of the registered practitioners and enlisted practitioners from amongst themselves."

(2) clause (c) shall be deleted.

Amendment
of section 17 of
Guj. XXXVI
of 1963.

3. In the principal Act, in section 17, in sub-section (3), for the words 'on payment of a fee of rupees twenty-five', the words "on payment of such fees as may be prescribed by the State Government," shall be substituted.



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H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 17 OF 2008.

(First published, after having received the assent of the Governor, in the "*Gujarat Government Gazette*" on the 30th September, 2008).

AN ACT

to establish and incorporate a University to be known as the Gujarat Forensic Sciences University in the State of Gujarat and for matters connected therewith or incidental thereto.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Gujarat Forensic Sciences University Act, 2008.

**Short title
and
commencement.**

(2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions 2. In this Act, unless the context otherwise requires,-

- (i) "Academic Council" means the Academic Council of the University constituted under section 16;
- (ii) "Board" means the Board of Governors of the University constituted under section 12;
- (iii) "Deans" means the Deans of the University appointed under section 23;
- (iv) "Director of Research and Development" means the Director of Research and Development of the University appointed under section 20;
- (v) "Directors" means the Directors of the Institutes or the centres of the University appointed under section 22;
- (vi) "Director General" means the Director General of the University appointed under section 8;
- (vii) "Finance Committee" means the Finance Committee of the University constituted under section 18;
- (viii) "prescribed" means prescribed by the regulations;
- (ix) "Registrar" means the Registrar of the University appointed under section 21;
- (x) "Regulations" means the regulations of the University made under section 35;
- (xi) "University" means the Gujarat Forensic Sciences University established and incorporated under section 3.

CHAPTER II

UNIVERSITY

Establishment and incorporation of University.

3. (1) There shall be established a University by the name of the "Gujarat Forensic Sciences University".

(2) The Director General, the Board, the Academic Council, the Directors, Director of Research and Development, the Deans, the Registrar and all other persons who may hereafter become such officers or members so long as they continue to hold such office or membership, are hereby constitute a body corporate by the name of the "Gujarat Forensic Sciences University".

(3) The University shall be a body corporate by the name as aforesaid, having perpetual succession and common seal with power, subject to the provisions of this Act, to acquire and hold property, to contract and shall, by the said name sue or be sued.

(4) In all suits and other legal proceedings by or against the University, the pleadings shall be signed and verified by the Registrar and all processes in such suits and proceedings shall be issued to, and served on, the Registrar.

4. The headquarters of the University shall be at Gandhinagar, Gujarat.

**Headquarters
of University.**

5. The University shall be deemed to be established and incorporated for the following objects, namely :-

**Objects of
University.**

- (i) to develop the knowledge of science, technology, providing specially designed academic training programmes in various technologies related with forensic science and behavioural science and also advanced technologies of forensic science and behavioural science, which includes both theoretical input and practical training for forensic and other applications; to generate expertise in advanced technologies required in investigation and handling of crime cases;
- (ii) to create centres and institutions of excellence for imparting State of-the-art education training and research in the fields of forensic science, behavioural science, technology and management;
- (iii) to create capabilities for development of knowledge, skills and competencies at various levels in the field of forensic science;
- (iv) to create capabilities for upgrading the infrastructure of global standards for education, training and research in the areas related to forensic science, technology, criminology and applied behavioural science;
- (v) to develop patterns of teaching and training at various levels of educational accomplishment so as to set high standards of education in

science, technology and management in relation to forensic technologies of various specialties like DNA, Fingerprint, brain fingerprinting, document and photography, ballistics, cyber crime, Narco analysis test, etc.

- (vi) to function as a leading resource centre for knowledge and development in the areas of forensic science, behavioural science related to civil and criminal laws;
- (vii) to provide inter-relationship for national and global participation in the fields of forensic science, behavioural science and technology in relation to the domain of investigation and detection of crime and furthering the cause of criminal justice system;
- (viii) to establish close linkages with various forensic science laboratories or institutes and law enforcement authorities to make teaching, training and research relevant in forensic science;
- (ix) such other objects, not inconsistent with the provisions of this Act which the State Government may, on application by the University, by notification in the *Official Gazette*, specify in this behalf.

University
open to all
irrespective
of sex,
religion, class,
creed or
opinion.

6. (1) No person shall be excluded from any office of the University or from membership of any of its authorities, bodies or committees, or from admission to any degree, diploma or other academic distinction or course of study on the sole ground of sex, race, creed, caste, class, place of birth, religious belief or political or other opinion.

(2) It shall not be lawful for the University to impose on any person any test whatsoever relating to sex, race, creed, caste, class, place of birth, religious belief or profession of political or other opinion in order to entitle him to be admitted as a teacher or a student or to hold any office or post in the University or to qualify for any degree, diploma or other academic distinction or to enjoy or exercise any privilege of the University or any benefaction thereof.

Powers and
functions of
University.

7. Subject to the provisions of this Act, the University shall exercise the following powers and perform the following functions, namely:-

- (i) to administer and manage the University and to establish such institutes and centres for research, education and instructions as are necessary for the furtherance of the objects of the University;
- (ii) to provide for instructions, training and research in such branches of knowledge or learning pertaining to forensic science, behavioural science, technology and management in relation to civil and criminal laws, allied areas, prevention of crimes and rehabilitation of the victims;
- (iii) to conduct innovative experiments in new methods and technologies in the field of science, technology and management in relation to the domains of investigation, prevention and detection of crimes and furthering the cause of criminal justice systems in order to achieve international standards of such education, training and research;
- (iv) to prescribe courses and curricula and provide for flexibility in the education systems and delivery methodologies including electronic and distance learning;
- (v) to hold examinations and confer degrees, diplomas or grant certificates and other academic distinctions or titles on persons subject to such conditions as the University may determine, and to withdraw or cancel any such degrees, diplomas, certificates, or other academic distinctions or titles in the manner as may be prescribed;
- (vi) to confer honorary degrees or other distinctions in the manner as may be prescribed;
- (vii) to establish such special centres, specialized study centres or other units for research and development as are, in the opinion of the University, necessary for the furtherance of its objects;
- (viii) to provide for printing, reproduction and publication of research and other work and to organize exhibitions, workshops, seminars, conferences, etc.;
- (ix) to sponsor and undertake research in all aspects of forensic science, behavioural science, technology and allied areas in relation to

investigation, detection and prevention of crimes and rehabilitating the victims of crimes;

- (x) to collaborate or associate with any educational institution with like or similar objects;
- (xi) to develop and maintain linkages with educational or other institutions in any part of the world having objects wholly or partially similar to those of the University, through exchange of teachers, students and scholars and generally in such manner as may be conducive to their common objects;
- (xii) to develop and maintain relationships with teachers, researchers and experts in the domains of investigation and detection of crimes and furthering the cause of criminal justice system for achieving the objects of the University;
- (xiii) to regulate the expenditure, manage the finance and to maintain accounts of the University;
- (xiv) to receive grants, subventions, subscriptions, donations and gifts for the purposes of the University and consistent with the objects for which the University is established and to enter into any agreement with the Central Government, the State Government, the University Grants Commission or other authorities or bodies for receiving any grants;
- (xv) to receive funds from the industries or from any other sources as gifts, donations, benefactions or bequests and by transfers of movable and immovable properties for the purposes and objects of the University;
- (xvi) to establish, maintain and manage halls and hostels for the residence of students and accommodation for faculties, officers and employees of the University and the guest houses;
- (xvii) to supervise and control the residence and regulate the discipline of students of the University and to make arrangements for promoting their health and general welfare and cultural activities;
- (xviii) to fix, demand and receive or recover fees and such other charges as may be prescribed;

- (xix) to institute and award fellowships, scholarships, prizes, medals and other awards;
- (xx) to purchase or to take on lease any land or building or works which may be necessary or convenient for the purpose of the University on such terms and conditions as it may think fit and proper and to construct, alter and maintain any such buildings or works;
- (xxi) to sell, exchange, lease or otherwise dispose of all or any portion of the properties of the University, movable or immovable, on such terms as it may think fit, consistent with the interest, activities and objects of the University after taking prior permission of the State Government;
- (xxii) to draw and accept, to make and endorse, to discount and negotiate Government promissory notes and other promissory notes, bills of exchange, cheques or other negotiable instruments;
- (xxiii) to raise and borrow moneys on bonds, mortgages, promissory notes or other obligations or securities founded or based upon all or any of the properties and assets of the University or without any securities and upon such terms and conditions as it may think fit and to pay out of the funds of the University, all expenses incidental to the raising of moneys, to repay and redeem any money borrowed after taking prior permission of the State Government;
- (xxiv) to invest the funds of the University in or upon such securities and transpose any investment from time to time in such manner as it may deem fit in the interest of University;
- (xxv) to execute conveyances regarding transfers, mortgages, leases, licenses, agreements and other conveyance in respect of the property, movable or immovable including Government securities belonging to the University or to be acquired for the purpose of the University after taking prior permission of the State Government;
- (xxvi) to admit the students for the courses offered by the University in the prescribed manner;

- (xxvii) to create academic, technical, administrative, ministerial and other posts and to make appointments thereto;
- (xxviii) to regulate and enforce discipline among the employees of the University and to provide for such disciplinary measures as may be prescribed;
- (xxix) to institute professorships, associate professorships, assistant professorships, readerships, lectureships, endowed professorship, honorary professorships, adjunct professorships, emeritus professors and any other teaching, academic or research posts and to prescribe qualifications for them;
- (xxx) to appoint persons as Directors, Director of Research and Development, Deans, Professors, Associate Professors, Assistant Professors, Readers, Lecturers, Adjunct Professors, Registrar, or otherwise as teachers and researchers of the University;
- (xxxi) subject to the provisions of this Act and the regulations, any officer or authority of the University may, by order, delegate his or its powers (except the power to make regulations) to any other officer or authority under his or its control and subject to the condition that the ultimate responsibility for the exercise of the power so delegated shall continue to rest in the officer or authority delegating them;
- (xxxii) to do all such other acts and things as the University may consider necessary, conducive or incidental to the attainment or enlargement of all or any of the objects of the University.

**Director
General.**

8. (1) The Director General of the University shall be appointed by the State Government.

(2) The person to be appointed as the Director General shall,-

- (i) be a renowned Forensic Scientist,
- (ii) be associated with Gujarat and worked in the State in terms of development, education, philanthropy, industrial or business development or exemplary administration in the State Services, Corporations or public bodies,

(iii) not have attained the age of sixty-five years on the date of nomination or re-nomination.

(3) The Director General shall hold office for a period of three years and shall be eligible for re-appointment for a further period of three years.

(4) The other terms and conditions of the Director General shall be such as may be determined by the State Government.

(5) The Director General may resign from his office by writing under his hand addressed to the State Government and such a resignation shall take effect from the date of acceptance by the State Government.

9. (1) The Director General shall have, subject to the provisions of this Act, power to cause an inspection or review to be made by such person or persons as he may direct, of the University, its buildings, hostels, libraries, equipments and systems and processes and of any institution or centre maintained by the University, and also of the examinations, teaching, research and other work conducted or done by the University and to cause an inquiry to be made in like manner in respect of any matter connected with the administration, academic affairs and finance of the University.

**Powers and
duties of
Director
General.**

(2) Without prejudice to the generality of the foregoing provisions, the Director General shall -

- (i) be the chief executive and academic officer of the University. He shall preside over the meetings of the Board, Academic Council and the Finance Committee;
- (ii) ensure implementation of the decisions of the authorities of the University;
- (iii) be responsible for imparting of instructions and maintenance of discipline in the University; and
- (iv) exercise such other powers and perform such other duties as may be assigned to him by or under this Act or the regulations or as may be delegated to him by the Board or by the State Government.

(3) Where any matter is of urgent nature requiring immediate action and the same cannot be immediately dealt with by the authority or body of the University empowered under this Act to deal with it, the Director General may take such action as he may deem fit and shall forthwith report the action so taken by him to the authority or body of the University who or which, in the ordinary course, would have dealt with the matter:

Provided that if such authority or other body is of the opinion that such action ought not to have been taken by the Director General, it may refer the matter to the Board which may either confirm the action taken by the Director General or annul the same or modify it in such manner as it thinks fit, and thereupon the action shall cease to have effects or, as the case may be, shall take effect in such modified form so however such modification or annulment shall be without prejudice to the validity of anything previously done by or under the order of the Director General.

(4) Where the exercise of the power by the Director General under sub-section (3) involves the appointment of any person, such appointment shall be confirmed by the competent authority empowered to approve such appointment in accordance with the provisions of this Act and the regulations, not later than six months from the date of order of the Director General, otherwise such appointment shall cease to have effect on the expiration of a period of six months from the date of order of the Director General.

CHAPTER III

AUTHORITIES AND OFFICERS OF UNIVERSITY

**Authorities
of
University.**

- 10.** The following shall be the authorities of the University, namely :-
- (i) the Board of Governors;
 - (ii) the Academic Council;
 - (iii) the Finance Committee; and
 - (iv) such other authorities as may be declared by regulations to be the authorities of the University.

11. The following shall be the officers of the University, namely:-

**Officers of
University.**

- (i) The Director General,
- (ii) The Director of Research and Development,
- (iii) The Directors,
- (iv) The Deans,
- (v) The Registrar, and
- (vi) such other persons in the service of the University as may be declared by regulations, to be the officers of the University.

12. (1) The Board of Governors of the University shall consist of the following members, namely:-

**Board of
Governors.**

- (i) the Director General, who shall be the Chairman of the Board;
- (ii) the Director of Research and Development;
- (iii) one Director of the University, by rotation, to be nominated by the Director General;
- (iv) one Police Officer, not below the rank of Additional Director General of Police, to be nominated by the State Government;
- (v) the Registrar General of the High Court of Gujarat;
- (vi) an officer of the Home Department, not below the rank of the Secretary to Government, to be nominated by the State Government;
- (vii) an officer of the Education Department, not below the rank of the Secretary to Government, to be nominated by the State Government;
- (viii) three academicians or professionals in the field of forensic science, to be nominated by the State Government.

(2) The Registrar shall be the Secretary of the Board.

13. (1) The Chairman shall preside at the meetings of the Board and at the convocation of the University.

**Powers of
Chairman
of Board.**

(2) The Chairman shall exercise such other powers and perform such other functions as may be assigned to him by or under this Act or the regulations.

**Powers and
functions of
Board.**

14. (1) Subject to the provisions of this Act, the Board shall be responsible for the general superintendence, direction and the control of affairs of the University and shall exercise all the powers of the University, and shall have the power to review the acts of the Academic Council and the Finance Committee and other committees or authorities of the University.

(2) Without prejudice to the provisions of sub-section (1), the Board shall have the following powers and functions, namely :-

- (i) to take decisions on question of policy relating to the administration and working of the University;
- (ii) to institute courses of study at the University;
- (iii) to make regulations;
- (iv) to consider and approve the annual report and the annual budget of the University for every financial year;
- (v) to invest moneys and funds of the University and to take decision on the recommendations of the Finance Committee;
- (vi) to publish or finance the publication of studies, treaties, books, periodicals, reports and other literature from time to time and to sell or arrange for the sale as it may deem fit;
- (vii) to create or abolish posts of teachers and officers and employees of the university;
- (viii) to appoint such committees as it considers necessary for the exercise of its powers and performance of its duties under this Act;
- (ix) to appoint Directors of the University;
- (x) to delegate any of its power to the Directors, Deans, Registrar or any other officer, employee or any authority of the University or to a committee appointed by it; and
- (xi) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by or under this Act or the regulations, and such other powers for achieving the objects of the University.

15. (1) Save as otherwise provided in this section, the term of a nominated member of the Board under clauses (iii) and (viii) of sub-section (1) of section 12 shall be three years from the date of his nomination.

Term of office and vacancies among members of Board.

(2) A member shall be eligible for re-nomination for the next term.

(3) A member nominated under clause (viii) of sub-section (1) of section 12 may resign from his office by writing under his hand addressed to the Chairman and his resignation shall take effect from the date it is accepted by the Chairman.

16. (1) The Academic Council of the University shall consist of the following members, namely :-

Academic Council.

(i) The Director General, who shall be the Chairman of the Academic Council;

(ii) Two academicians or professionals, to be nominated by the Board;

(iii) Two academicians or professionals in the field of forensic science, to be nominated by the Board;

(iv) The Director of Research and Development;

(v) The Directors of the University;

(vi) One professor from each discipline of the University, by rotation, to be nominated by the Director General.

(2) The Registrar shall be the Secretary of the Council.

(3) The term of office of the members nominated under clauses (ii), (iii) and (vi) of sub-section (1) shall be three years.

17. Subject to the provisions of this Act and the regulations, the Academic Council of the University shall exercise the following powers and perform following functions, namely:-

Powers and functions of Academic Council.

(i) to exercise control over the academic policies of the University and be responsible for the maintenance and improvement of standards of instruction, education and evaluation in the University;

- (ii) to consider matters of general academic interest either on its own initiative or on a reference from the faculty of the University or the Board and to take appropriate action thereon;
- (iii) to recommend to the Board, such regulations as are consistent with this Act regarding the academic functioning of the University including discipline of students; and
- (iv) to exercise such other powers and perform such other duties as may be conferred or imposed upon it by the regulations.

**Finance
Committee**

18. (1) The Finance Committee shall consist of the following members, namely:-

- (i) The Director General, who shall be the Chairman of the Committee;
- (ii) The Director of Research and Development;
- (iii) Two members of the Board (one of them shall be a Government nominee on the Board) to be nominated by the Board.
- (iv) The Directors of the University;
- (v) one expert in the field of finance, to be nominated by the Board;
- (vi) one professor, by rotation, to be nominated by the Board.

(2) The Registrar shall be the Secretary of the Committee.

(3) The term of office of the members nominated under clauses (v) and (vi) shall be three years.

**Powers and
functions of
Finance
Committee.**

19. Subject to the other provisions of this Act, the Finance Committee shall exercise the following powers and perform the following functions, namely:-

- (i) to examine the annual accounts and annual budget estimates of the University and to advise the Board thereon;
- (ii) to review from time to time the financial position of the University;
- (iii) to make recommendations to the Board on all financial policy matters of the University;

- (iv) to make recommendations to the Board on all proposals involving raising of funds, receipts and expenditure;
- (v) to provide guidelines for investment of surplus funds;
- (vi) to make recommendations to the Board on all proposals involving expenditure for which no provision has been made in the budget or for which expenditure in excess of the amount provided in the budget needs to be incurred;
- (vii) to examine all proposals relating to the revision of pay-scales, upgradation of the scales and those items which are not included in the budget prior to placing before the Board; and
- (viii) to exercise such other powers and perform such other functions as may be conferred or imposed upon it by the regulations.

20. (1) The Director of Research and Development shall be appointed by the Director General with the approval of the Board.

**Director of
Research
and
Development**

(2) He shall be a renowned researcher having out-standing published research work in reputed National or International Journals and under whom at least ten candidates should have obtained the doctorate degree.

(3) The qualifications and other terms and conditions of the Director of Research and Development shall be such as may be prescribed by the regulations.

(4) He shall assist the Director General in managing the research and development related academic, administrative and other affairs of the institute.

(5) He shall exercise such other powers and perform such other functions as may be prescribed or entrusted to him by the Director General.

21. (1) The Registrar shall be appointed by the University in such manner and on such terms and conditions as may be prescribed.

Registrar.

(2) The Registrar shall exercise the following powers and perform following duties, namely:-

- (i) he shall be responsible for the custody of records, common seal, the funds of the University and such other property of the University;
- (ii) he shall place before the Board and other authorities of the University, all such information and documents as may be necessary for transaction of its business;
- (iii) he shall be responsible to the Director General for the proper discharge of his functions;
- (iv) he shall be responsible for the administration of the University and conduct the examinations and make all other arrangements necessary thereof and be responsible for the execution of all processes connected therewith;
- (v) he shall attest and execute all documents on behalf of the University;
- (vi) he shall verify and sign the pleadings in all suits and other legal proceedings by or against the University and all processes in such suits and proceedings shall be issued to and served on the Registrar; and
- (vii) he shall exercise such other powers and perform such other duties as may be assigned to him by or under this Act, the regulations or as may be delegated to him by the Board or the Director General.

Directors. 22. (1) The Directors of the institutes shall be appointed by the Director General with the approval of the Board in such manner and on such terms and conditions as may be prescribed.

(2) The Directors shall assist the Director General in managing the academic, administrative and other affairs of the institutes and shall exercise such powers and perform such functions as may be prescribed or entrusted to them by the Director General.

Deans. 23. (1) The Deans shall be appointed by the Director General from amongst the faculties of the University.

(2) The Deans shall assist the Director General and respective Directors of the institutes or centres in managing the academic and other affairs of the University and shall exercise such powers and perform such functions as may be prescribed or entrusted to them by the Director General and the Director.

CHAPTER IV

FINANCE

24. The State Government shall place funds at the disposal of the University to be called the Permanent Endowment Fund of sum of five crores of rupees or such sum, required for meeting the full operational expenditure of the University, whichever is more, for a period of five years in the form of long term interest bearing securities issued or guaranteed by the Central Government or the State Government.

**Permanent
Endowment
Fund of
University.**

25. The Government shall pay to the University from time to time such sums of money and in such manner as may be considered necessary for the exercise of powers and discharge of its functions by the University by or under this Act.

**Payment by
State
Government
to University.**

26. (1) The University shall establish a fund to be called the 'University Fund' consisting of-

**Fund of
University.**

- (i) any contribution or grants or loans by the State Government and the Central Government;
- (ii) the income of the University from all sources including income from fees and charges;
- (iii) the moneys received by the University by way of grants, loans, gifts, donations, benefactions, bequests or transfer endowments and other grants, if any;
- (iv) the moneys received by the University from the collaborating industries in terms of the provisions of the Memorandum of Understanding entered between the University and the industry, for establishment of sponsored chairs, fellowships or infrastructure facilities of the University; and

- (v) the moneys received by the University in any other manner or from any other source.
- (2) All funds of the University shall be deposited in such banks or invested in such manner as the Board may decide on the recommendation of the Finance Committee.
- (3) The funds of the University shall be applied towards the expenses of the University including expenses incurred in the exercise of its powers and discharge of its functions by or under this Act.

**Accounts
and audit.**

27. (1) The University shall maintain proper accounts and other relevant records and prepare an Annual Statement of Accounts, including the income and expenditure account and the balance sheet, in such form and in such manner as may be prescribed.

(2) The University shall adopt a proper system of internal checks and balances and control in the discharge of its financial, accounting and auditing functions as may be prescribed by the Regulations.

(3) The accounts of the University shall be audited every year by an auditor, who shall be a Chartered Accountant as defined in the Chartered Accountants Act, 1949 or a firm of Chartered Accountants, to be appointed by the Board.

38 of
1949.

(4) The accounts of the University certified by the person or firm so appointed or any other persons authorized in this behalf together with the audit report thereon shall be placed before the Board and the Board may issue such instructions to the University in respect thereof as it deems fit and the University shall comply with such instructions.

(5) The accounts of the University shall be audited by an internal auditor who shall be a Chartered Accountant or a firm of Chartered Accountants appointed by the Board to ensure concurrent audit of all books of accounts and such periodic internal audit reports shall be placed before the Board for review.

(6) The University shall prepare for each year an annual report of its activities of the previous year containing such particulars as the Board may specify and submit the same in the form of Annual Report to the Board on or before such date as may be prescribed, for review and approval.

(7) The copy of the annual report and annual audit report along with the resolution of the Board thereon shall be submitted to the State Government.

28. (1) The University shall, with the approval of the Board, constitute for the benefit of its officers, teachers and other employees in such manner and subject to such conditions as may be prescribed, such schemes of pension, provident fund and insurance as it may deem fit and also aid in establishment and support of the associations, institutions, funds, trust and conveyance calculated to the benefit of the officers, teachers, employees of the University.

**Pension,
insurance
and
Provident
Fund.**

19 of
1925.

(2) Where any such provident fund has been constituted, the provisions of the Provident Funds Act, 1925 shall apply to such fund as if it were a Government Provident Fund.

CHAPTER IV

SUPPLEMENTARY PROVISIONS

29. No act or proceeding of the Board or any authority of the University or any committee constituted under this Act or by regulations shall be invalidated on the ground merely of the existence of any vacancy in or defect of, in the constitution of such Board, authority or committee of the University.

**Acts and
proceedings
not to be
invalidated
by vacancies.**

30. Notwithstanding anything contained in any other State law for the time being in force, the University shall have powers to confer degrees, diplomas and grant certificates and confer honorary degrees and other academic distinctions and titles as approved by the Board.

**Conferment of
degrees,
diplomas and
grant of
certificates by
University.**

31. The University shall furnish to the State Government, University Grants Commission and other statutory authorities, such reports, returns, statements and other information as may be required by them from time to time.

**Returns and
information.**

Officers and employees to be public servant.

32. Every officer, teacher and employee of the University shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Explanation. - For the purpose of this section, any person, who is appointed by the University for a specified period or a specified work of the University or who received any remuneration by way of allowances or fees for any work done from the University fund, shall be deemed to be an officer or employee of the University while he is performing the duties and functions connected with such appointment or work.

Dismissal, removal, reduction or termination of services of staff of University.

33. (1) No officers or employees or members of the teaching, non-teaching and other academic staff of the University shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges.

(2) An appeal against an order of dismissal, removal or reduction in rank under sub-section (1) or of termination of service shall be made to the Director General within ninety days from the date of communication of such order and the decision of the Director General in such appeal shall be final.

Power of State Government to give directions.

34. The State Government shall have powers to issue directions from time to time as may be required for compliance of the provisions of this Act, the regulation made thereunder and any other law for the time being in force and the University shall be bound to comply with such direction.

Power to make regulations.

35. (1) Subject to the provisions of this Act, the Board shall have in addition to all other powers vested in it, the power to make regulations to provide for the administration and management of the affairs of the University.

(2) In particular and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:-

- (i) the summoning and holding of meetings of the authorities of the University, other than the first meeting of the Board and the quorum and conduct of business at such meeting;
- (ii) the powers and functions to be exercised and discharged by the Director General;
- (iii) the constitution, powers and duties of the authorities, bodies and other committees of the University, the qualifications and disqualifications for membership of such authorities, terms of office of the membership, appointment and removal of member thereof and other matters connected therewith;
- (iv) the procedure to be followed by the Board and any committee or other body constituted by or under this Act or by the regulation in the conduct of the business, exercise of the powers and discharge of the functions;
- (v) the procedure and criteria to be followed in establishing courses of study and admission of students;
- (vi) the procedure to be followed for enforcing discipline in the University;
- (vii) the management of the properties of the University;
- (viii) the degrees, diplomas, certificates, and other academic distinctions and titles which may be conferred or granted by the University and withdrawal or cancellation of any such degree, diplomas, certificates and other academic distinctions and titles and the requirements thereof;
- (ix) the conduct of examinations including the term of office and appointment of examiners ;
- (x) the creation of posts of Directors, Professors, Associate Professors, Assistant Professors, Readers, Lectures or equivalent academic designations or posts, officers and employees of the University, and the appointment of persons to such posts including the requisite qualifications thereof;
- (xi) the fees and other charges to be paid to the University for the courses, training, facilities and services provided by it;
- (xii) the manner and conditions for constitution of insurance, pension and provident funds and such other schemes for the benefits of officers, teachers and employees of the University;

- (xiii) the terms and conditions for association of the University with other institutions;
- (xiv) the preparation of budget estimates and maintenance of accounts;
- (xv) the mode of execution of contracts or agreements by or on behalf of the University;
- (xvi) the classification and procedure for appointment of officers, employees and other staff of the University;
- (xvii) the terms and conditions and tenure of appointment, salaries and allowances, contractual services, rules of discipline and other conditions of service of the Director of Research and Development, Director, other officers, teachers and employees of the University;
- (xviii) the terms and conditions governing deputation of teachers, officers and employees of the University;
- (xix) the powers and duties of the Director of Research and Development, Directors and other officers, teachers and employees of the University;
- (xx) the terms and conditions governing fellowships, scholarships, stipends, medals and prizes;
- (xxi) the authentication of the orders and the decisions of the Board;
- (xxii) the matters relating to hostels and halls of residence and housing for faculties, officers and employees and guest house including disciplinary control therein; and
- (xxiii) all matters which by this Act are to be or may be prescribed.

**Appointment
of First
Registrar.**

36. Notwithstanding anything contained in section 20, the first Registrar shall be appointed by the State Government as soon as practicable after the commencement of the Act for a period not exceeding three years and on such conditions as the State Government thinks fit.

**Transitory
provisions.**

37. Notwithstanding anything contained in this Act, the Director General may, with the prior approval of the Board and subject to availability of the funds, discharge all or any of the functions of the University for the purpose of carrying

out the provisions of this Act and the regulations and for that purpose, may exercise any power or perform any duty which by or under this Act and regulations are to be exercised or performed by any authority of the University until such authority comes into existence in accordance with the provisions of this Act and the Regulations.

38. No suit, prosecution or other legal proceedings shall lie against and no damage shall be claimed from the University, the Director General, the Directors, the authorities or officers or employees of the University or any other person in respect of anything which is done in good faith or purporting to be done in pursuance of this Act or any regulations made thereunder. **Indemnity.**

39. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing difficulties: **Power of State Government to remove difficulties.**

Provided that no such order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.



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PART IV

Acts of Gujarat Legislature and Ordinances promulgated and
Regulations made by the Governor.

The following Act of the Gujarat Legislature, having been assented to by the Governor on the 30th September, 2008, is hereby published for general information.

H. D. VYAS,
Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 18 OF 2008.

(First published, after having received the assent of the Governor, in the "Gujarat Government Gazette" on the 30th September, 2008).

AN ACT

to provide for the constitution of the Metropolitan Planning Committee in every Metropolitan area for preparation of the draft development plan for the Metropolitan area.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

1. (1) This Act may be called the Gujarat Metropolitan Planning Committees Act, 2008. Short title and commencement.
- (2) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Definitions. 2. In this Act, unless the context otherwise requires, -

- (a) "Chief Executive Authority" means officer appointed by the Government in respective Urban Development Authority;
- (b) "Collector" means the Collector of the District in the Metropolitan area;
- (c) "Committee" means a Metropolitan Planning Committee constituted under sub-section (1) of section 3;
- (d) "district" means a district of Gujarat;
- (e) "District Development Officer" means the officer appointed as such by the Government under the Gujarat Panchayats Act, 1993; Guj. 18 of 1993.
- (f) "District Panchayat" means a District Panchayat defined in clause (7) of section 2 of Gujarat Panchayats Act, 1993; Guj. 18 of 1993.
- (g) "panchayat" means a village panchayat as defined in clause (30) of section 2 of the Gujarat Panchayats Act, 1993; Guj. 18 of 1993.
- (h) "population" means the population as ascertained at the last preceding census of which the relevant figures have been published;
- (i) "prescribed" means prescribed by rules made under this Act;
- (j) "Metropolitan area" means an area having a population of ten lakhs or more, comprised in one or more districts and consisting of two or more Municipalities or Panchayats or other contiguous areas, specified by the Government by public notification to be a Metropolitan area for the purposes of this Act;
- (k) "Municipality" means an institution of self-Government as defined in clause (14) of section 2 of the Gujarat Municipalities Act, 1963; Guj. 34 of 1964.
- (l) "notification" means notification published in the *Official Gazette*;
- (m) "Urban Development Authority" means an urban development authority constituted under sub-section (1) of section 22 of the Gujarat Town Planning and Urban Development Act, 1976 for Ahmedabad, Surat, Vadodara and Rajkot. President Act No. 27 of 1976.

3. (1) The State Government shall, by notification in the *Official Gazette*, constitute a Metropolitan Planning Committee in every Metropolitan area consisting of such number of persons not less than thirty and not more than forty-five as it may determine.

Constitution of
Metropolitan
Planning
Committee.

(2) The Metropolitan Planning Committee shall consist of following members, namely :-

- (i) The Chairperson of the committee shall be the Minister nominated by the Government;
- (ii) the President of the District Panchayat having largest population in the Metropolitan area if there are more than one district, within the Metropolitan area, shall be a member;
- (iii) the Chairman of the concerned Urban Development Authority in Metropolitan area, *ex-officio*;
- (iv) the Mayor of Municipal Corporation shall be member;
- (v) the Municipal Commissioner, *ex-officio*;
- (vi) the District Collector, *ex-officio*;
- (vii) the District Development Officer of the District Panchayat having largest population in the Metropolitan area if there are more than one district, within the Metropolitan area, *ex-officio*;
- (viii) the Chief Executive Authority of concerned Urban Development Authority shall be Member-Secretary of the Committee and his office will be the Secretariat of the Committee;
- (ix) a person or persons, as determined by the State Government having special knowledge in the fields of economics, planning, finance, engineering or administration, may be appointed as member or members;
- (x) Such number of members as determined by the State Government, to be elected by and from amongst the elected members of Municipalities and Chairpersons of Panchayats falling in the Metropolitan area :

Provided that not less than two-thirds of the total number of the members of the Committee shall be elected by and from amongst the elected members of the Municipalities and Chairpersons of the Panchayats in proportion to the ratio between the population of the Municipalities and of the Panchayats in the Metropolitan area.

(3) (i) The members of the House of the People and the members of the Gujarat Legislative Assembly elected from any constituency in the Metropolitan area or a part thereof shall be permanent invitees to the Metropolitan Planning Committee;

(ii) Such officer or officers of the State Government or of any statutory Board, Corporation or Authority having knowledge in the field of economics, planning, engineering, finance or administration, as decided by the State Government, shall be the permanent invitees to the Metropolitan Planning Committee.

Election. 4. (1) The Municipal Commissioner shall co-ordinate and supervise all works in connection with the election of members to the Committee in the manner as may be prescribed.

(2) The Municipal Commissioner shall appoint a Returning Officer and as many Assistant Returning Officer as may be necessary for conducting the election of members to the Committee.

(3) The powers and functions of the Returning Officer and the Assistant Returning Officers shall be such as may be prescribed.

(4) Where any dispute arises regarding any election held under this Act, any person entitled to vote at such election may, within thirty days after the date of the declaration of the results of such election, file an appeal before the Election Commissioner of the State having jurisdiction, and the decision of the Election Commissioner shall be final and shall not be called in question in any court.

(5) Notwithstanding anything to the contrary contained in this Act or in any other law for the time being in force, no civil court of law shall have jurisdiction to entertain any petition calling in question the validity of any election held under this Act.

Term of office and other conditions of members of Committee.

5. (1) The term of office of the members of the Committee other than *ex-officio*, shall be five years.

(2) A member of a Committee, who is a Chairperson of a Panchayat, or a member of a Municipality, the House of the People, the Legislative Assembly of the State shall cease to be a member of the Committee if he ceases to be a Chairperson of respective Panchayat, or a member of the respective Municipality, the House of the People or the Legislative Assembly of the State.

(3) The other terms and conditions of the members of the Committee shall be such as may be prescribed.

6. A member of a Committee may, at any time, resign his office by writing to the Chairperson and, on such resignation being accepted, the member shall be deemed to have vacated his office. **Resignation.**

7. Any vacancy occurring by reason of death, resignation or otherwise of an elected member of a Committee shall be filled by election of another member in the manner as may be prescribed. **Filling of casual vacancy in place of an elected member of Committee.**

8. The State Government shall provide to the Committee such sum as it may think fit for the purpose of carrying out the functions by the Committee under this Act. **Grant to Committee.**

9. (1) The Committee shall meet on such date, at such time and place as the Chairperson may think fit and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed; **Procedure, records to be regulated by Committee.**

Provided that the Chairperson, when required by a notice in writing by at least one-third of the members of the Committee shall call a meeting within one month from the date of receipt of the notice.

(2) Minimum of ten members, shall form a quorum for a meeting of the Committee :

Provided that no quorum shall be necessary for an adjourned meeting.

(3) The Secretary of the Committee shall maintain records and the proceedings of the meetings of the Committee and shall take such actions as the Committee may decide.

10. (1) Every Metropolitan Planning Committee shall prepare a draft development plan for the Metropolitan area as a whole. **Functions of Metropolitan Planning Committee.**

(2) The Committee shall, in preparing the draft development plan under sub-section (1), -

(a) have regard to -

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area,

(ii) matters of common interest between the Municipalities and the Panchayats, including co-coordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set by Government of India and the State Government;

- (iv) the extent and nature of investments likely to be made in Metropolitan area by agencies of the Government of India and of the State Government and other available resources whether financial or otherwise;

(b) consult such institutions and organizations as the State Government may, by order, specify.

(3) The Chairperson of a Metropolitan Planning Committee shall forward the draft development plan, as recommended by such Committee, to the State Government in the manner as may be prescribed.

(4) The Chairperson of a Committee shall have powers to invite any expert of any field if necessary as a special invitee.

Power of State
Government to
make rules.

11. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters, which under any provision of this Act, are required to be prescribed or to be provided for by rules.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

Power to
remove
difficulties.

12. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as appears it to be necessary or expedient for removing the difficulty:

Provided that no order under sub-section (1) shall be made after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.



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H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 19 OF 2008.

(First published, after having received the assent of the Governor, in the "Gujarat Government Gazette" on the 30th September, 2008).

AN ACT

further to amend the Bombay Land Revenue Code, 1879.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows:-

1. This Act may be called the Bombay Land Revenue (Gujarat Amendment) Act, 2008. Short title.

Amendment
of section
65B of Bom.
V of 1879.

2. In the Bombay Land Revenue Code, 1879, in section 65B, in sub-section (1), in clause (b), in sub-clause (I), in paragraph (b), to item (vi) after the existing proviso, the following proviso shall be added, namely :-

"Provided further that the State Government may exempt, by notification in the *Official Gazette*, the use of land for such *bonafide* industrial purpose from the fulfilment of the condition mentioned at item (vi) above by an occupant or class of occupants as it may deem fit."



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H. D. VYAS,

Secretary to the Government of Gujarat,
Legislative and Parliamentary Affairs Department.

GUJARAT ACT NO. 20 OF 2008.

(First published, after having received the assent of the Governor, in the "Gujarat Government Gazette" on the 30th September, 2008).

AN ACT

to regulate the supply, distribution, sale and fixation of sale price of cotton seeds and for the matters connected therewith and incidental thereto.

WHEREAS cotton seeds of certain varieties are not notified under section 5 of the Seeds Act, 1966 and consequently no sale of such seeds are regulated under section 7 of the said Act;

AND WHEREAS cotton seeds is not an essential commodity within the meaning of the Essential Commodities Act, 1955 as amended by the Essential Commodities (Amendment) Act, 2006;

AND WHEREAS the provisions of the Seeds (Control) Order, 1983, issued under section 3 of the Essential Commodities Act, 1955 are not applicable in so far as they relate to the cotton seeds with effect from 12th February, 2007;

10 of 1955.

AND WHEREAS there is no provisions in the Environment (Protection) Act, 1986 to regulate the supply, distribution and sale of transgenic and genetically modified cotton seeds and to control the sale price of such cotton seeds in the State;

29 of 1986.

AND WHEREAS the traders in cotton seeds including transgenic cotton seeds are exploiting poor farmers by collecting exorbitant price;

AND WHEREAS there is no provision to regulate the supply, distribution, sale of cotton seeds and to control the sale price of such cotton seeds in the State;

AND WHEREAS it has become imperative on the part of the State Government to regulate the supply, distribution and sale of cotton seeds by fixing the sale price in the interests of the farmers in the State.

It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows :-

Short title
and commen-
cement.

1. (1) This Act may be called the Gujarat Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Act, 2008.

(2) It shall be deemed to have come into force on 11th June, 2008.

Definitions.

2. In this Act, unless the context otherwise requires,-

(1) "Agronomic Performances" means distinguishable agronomic qualitative and quantitative characteristics of any cotton seeds variety considered for evaluation of performance as claimed by the producer on label;

(2) "Controller" means the Cotton Seeds Controller appointed under section 3;

(3) "Cotton Seeds" means cotton seeds of any variety and includes transgenic and genetically modified cotton seeds varieties used for sowing;

(4) "Farmer" means any person who raises cotton crops either by cultivating the land by himself or through any other person but shall not include persons, companies, traders, dealers who are engaged in the commercial procurement and sale of seeds;

(5) "Misbranded" the seeds shall be deemed to be misbranded, if -

(i) it is a substitute for, or resembles in a manner likely to deceive, another variety of seed under the name of which it is sold, and is not plainly and conspicuously labeled so as to indicate its true nature; or

(ii) it is falsely stated to be the produce of any place or country; or

(iii) it is sold by a name which belongs to another kind or variety of seeds; or

(iv) false claims are made for it upon the label or otherwise; or

(v) sold in a package which has been sealed or prepared by, or at the instance, of the dealer and which bears his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this Act; or

(vi) the package containing it or the label on the package bears any statement, design or device regarding the quality of cotton seeds contained therein, which is false or misleading in any material particular or if the package is otherwise deceptive with respect of its contents; or

- (vii) it is not registered in the manner required by or under the provisions of this Act; or
- (viii) its label does not contain a warning or caution, which may be necessary and sufficient, if complied with to prevent risk to human beings or animals; or
- (ix) the package containing it or the label on the package bears the name of a fictitious individual or company as the dealer of the kind or variety; or
- (x) it is not labeled in accordance with the requirement of the provisions of this Act or the rules made thereunder;
- (6) "prescribed" means prescribed by rules made under this Act;
- (7) "producer" means a person, group of persons, firm or company or organisation who grows or organises the production of cotton seeds;
- (8) "Spurious Seeds" means the cotton seeds which is not genuine or true to its type;
- (9) "State Seeds Testing Laboratory" means a laboratory established or declared as such by the State Government by a notification published in the *Official Gazette*;
- (10) "sub-standard seeds" means cotton seeds which does not meet with the prescribed standards for the cotton seeds;
- (11) "Transgenic Variety" means seeds or planting material synthesised or developed by modifying or altering the genetic composition by means of genetic engineering;
- (12) "Variety" means a plant grouping except micro-organism within a single botanical taxon of the lowest known rank, which can be -
 - (i) defined by the expression of the characteristics resulting from a given genotype of that plant grouping;
 - (ii) distinguished from any other plant grouping by expression of at least one of the said characteristics;
 - (iii) considered as a unit with regard to its suitability for being propagated which remains unchanged after such propagation;
 and includes propagating material of such variety, extant variety, transgenic variety, farmers' variety and essentially derived variety;

54 of 1966. (13) The words and expressions used in this Act but not defined shall have the same
 10 of 1955. meaning assigned to them in the Seeds Act, 1966, the Essential Commodities Act, 1955,
 29 of 1986. Seeds (Control) Order, 1983 issued there under and the Environment (Protection) Act, 1986.

3. The State Government may, by notification published in the *Official Gazette*, appoint an officer to be the Cotton Seeds Controller for the State. Appointment of Controller.

4. (1) Subject to the control of the State Government, the Controller, if it appears to him to be necessary or expedient for regulating, maintaining or increasing the supply or distribution or sale of cotton seeds, may, by order in writing, - Powers of Controller.

- (a) require any person holding stock of cotton seeds to sell the whole or specified part thereof at such prices as may be fixed by the State Government from time to time and to such persons in such circumstances as may be specified in the said order;

(b) require any person engaged in the supply, distribution and sale of cotton seeds to comply with such directions as may be specified in the order as to the variety, quality or quantity of the cotton seeds to be sold or delivered by him from time to time.

(2) Any person to whom an order is issued under sub-section (1) shall comply with such order, notwithstanding anything inconsistent therewith contained in any contract or other instrument to which he is a party.

License for
vendor.

5. (1) Every person desirous to carry on the business of sale in cotton seeds shall apply to the Controller for grant of licence in such form as may be prescribed.

(2) Such application shall be accompanied by such fees and such other documents, as may be prescribed.

(3) The Controller shall, after making such enquiry as he deems fit, either grant the application or reject it.

(4) If the Controller grants the application, he shall issue a licence to carry on the business of sale in cotton seeds, subject to such terms and conditions and in such form as may be prescribed.

Functions of
Controller.

6. The Controller appointed under this Act shall perform the following functions, namely :-

(a) arrange for mandatory registration of cotton seeds firms which are engaged in the trade of cotton seeds duly indicating the production aspects and areas of operation etc;

(b) arrange for payment of compensation to the farmers;

(c) advice the State Government on matters relating to regulation of sale of cotton seeds by way of compulsory DNA finger printing test or genetic purity test; and

(d) such other matters as assigned to him by the State Government.

State Seeds
Testing
Laboratory.

7. The State Government may in consultation with the Controller and by notification in the *Official Gazette*, -

(a) establish one or more State Seeds Testing Laboratories or declare any seeds testing laboratory in the Government or non-Government sector as the State Seeds Testing Laboratory where analysis of cotton seeds shall be carried out in the prescribed manner;

(b) recognize one or more seeds testing laboratories as referral seeds testing laboratories for the purpose of referral analysis in the prescribed manner.

Compensation
to farmers.

8. (1) The producer or distributor or vendor of cotton seeds or, as the case may be, whose address appears on the label shall disclose the expected performance of such seeds, under given conditions to the Controller and if such seeds fails to provide the expected performance under such given conditions, the State Government or farmer may claim compensation in such manner as may be prescribed. In respect of transgenic seeds all the conditions that are imposed by Genetic Engineering Approval Committee has to be complied.

(2) In case the claim of expected performance is found fictitious, the producer whose address appears on the label, shall be responsible for payment of all such claims related to agronomic performance as specified in sub-section (1).

(3) The compensation payable under sub-sections (1) and (2) shall be assessed and fixed by the committee appointed for each agro-climatic zone separately, consisting of crop experts and representatives of the State Government, as may be notified by the State Government.

9. (1) The State Government may, by notification published in the *Official Gazette*, appoint such person as it thinks fit to be Seeds Inspector and specify the areas within which he shall exercise his jurisdiction. Seeds Inspector.

(2) The Seeds Inspector, if he has information that any person dealing in the trade of cotton seeds has contravened any of the conditions issued by the Controller, or suspecting the quality of the cotton seeds or any person is about to commit an offence in respect of cotton seeds, he may enter in any premises for the purpose of search, and draw samples and detain or seize the stock of cotton seeds and records and after receiving the reports of Seeds Analysts, shall take all further actions in accordance with the provisions of this Act.

10. The State Government may, by notification published in the *Official Gazette*, appoint such person as it thinks fit, to be the Seeds Analyst and specify the areas within which he shall exercise his jurisdiction. Seeds Analyst.

11. (1) The Seeds Analyst shall, as soon as may be after the receipt of the sample from the Seeds Inspector, analyse the sample at the State Seeds Testing Laboratory and furnish a report on the result of the analysis to the Seeds Inspector, within thirty days of receipt of the sample to the laboratory. Report of Seeds Analyst.

(2) The Seeds Inspector shall on the basis of the report of the Seeds Analyst under sub-section (1), institute proceedings for the prosecution on the producer or, as the case may be, vendor of the said seeds.

(3) After institution of prosecution under this Act, the accused producer or vendor or, as the case may be, the complainant may on payment of the prescribed fees, make an application to the Court for sending any of the sample retained with Seeds Inspector or producer or vendor as per discretion of Magistrate to any of the laboratory referred to in section 7 of this Act, for its report. The Court shall first ascertain the mark or seal or the fastening as may be prescribed or the intact. On receipt of the application, the Court may dispatch the sample under its own seal to any of the referral laboratory specified for the purpose, which shall thereupon send its report to the Court in the prescribed form specifying the result of the analysis within a period of thirty days from the date of receipt of the sample.

(4) The report sent by the referral laboratory under sub-section (3) shall supersede the report given by the Seeds Analyst under sub-section (1).

(5) When the report sent by the referral laboratory under sub-section (3) is produced in any proceedings, it shall not be necessary to produce any such sample or part thereof taken for analysis in any proceedings.

12. (1) The State Government may, after taking into consideration of the cost of production, etc. including trait value and other related factors wherever necessary, obtained from various agencies concerned, fix maximum sale price from time to time, of all types of cotton seeds. Power to fix the price.

(2) Every such price shall be published in the *Official Gazette* and shall be effective from such date as may be specified therein.

Penalties. 13. (1) If any person contravenes any of the provisions of this Act or the rules or the order issued to him by the Controller under this Act, he shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend up to rupees five thousand or with both.

(2) If any person commits any act of misbranding, sale of spurious and substandard cotton seeds shall be punishable with imprisonment for a term which may extend to three years or with fine which may extend to rupees five thousand or with both.

Offences by companies.

14. (1) Where an offence under this Act or the rules thereunder has been committed by a company, every person who, at the time the offence was committed, was in-charge of, and was responsible to the company, for the conduct of the business of the company, as well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act, has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. - For the purpose of this section, -

(a) "company" means a body corporate, and includes a firm or other association of persons; and

(b) "director" in relation to a firm means a partner in the firm.

Cognizance of offences.

15. No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by the Controller or any other authority authorized by him.

Appeal.

16. (1) Any person aggrieved by a decision of the Controller under section 4 or 5 may, within thirty days from the date on which the decision is communicated to him and on payment of such fees as may be prescribed, prefer an appeal to the State Government:

Provided that the appellate authority may admit an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) On receipt of an appeal under sub-section (1) the appellate authority shall, after giving the appellant an opportunity of being heard, dispose of the appeal as expeditiously as possible.

(3) Every order of the appellate authority under this section shall be final.

Forfeiture of cotton seeds.

17. When any person has been convicted for the contravention of any of the provisions of this Act or the rules made thereunder, the cotton seeds in respect of which the contravention has been committed may be forfeited to the State Government.

18. Nothing in this Act shall apply to any cotton seeds grown by a farmer and sold or delivered by him on his own premises directly to another farmer for being used by that farmer for the purpose of sowing. **Exemption.**

19. The Controller and all other officers appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. **Officers to be public servant.**

45 of 1860.

20. No suit, prosecution or other legal proceedings shall lie against the State Government or the Controller, the Seeds Inspector, the Seeds Analyst or an officer or employee of the State Government for anything which is done or intended to be done in pursuance of any of the provisions of this Act or rules made thereunder. **Protection of action taken in good faith.**

21. The State Government may give such directions to the Controller, the Seeds Inspector or the Seeds Analyst as may appear to it to be necessary for carrying out the provisions of this Act or of any rules made thereunder. **Power of State Government to give directions.**

22. (1) The State Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act. **Power to make rules.**

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters, which under any provision of this Act, are required to be prescribed or to be provided for by rules.

(3) All rules made under this section shall be laid for not less than thirty days before the State Legislature as soon as possible after they are made and shall be subject to rescission by the State Legislature or to such modification as the State Legislature may make during the session in which they are so laid or the session immediately following.

(4) Any rescission or modification so made by the State Legislature shall be published in the *Official Gazette*, and shall thereupon take effect.

23. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act, as appears it to be necessary or expedient for removing the difficulty : **Power to remove difficulty.**

Provided that no order under sub-section (1) shall be made after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before the State Legislature.

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No. 1 of
2008.

24. (1) The Gujarat Cotton Seeds (Regulation of Supply, Distribution, Sale and Fixation of Sale Price) Ordinance, 2008 is hereby repealed. **Repeal and savings.**

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance shall be deemed to have been done or taken under this Act.